

W. Ron Allen, President

National Congress of American Indians

**Prepared Statement on the FY2000 President's Budget
Request
for Federal Indian Programs
to the Senate Committee on Indian Affairs**

February 24, 1999

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I. Introduction

Good morning Chairman Campbell, Vice-Chairman Inouye and distinguished members of the Indian Affairs Committee. Thank you for the opportunity to present testimony regarding the President's Budget Request for Fiscal Year (FY) 2000 Indian programs and services. My name is W. Ron Allen. I am President of the National Congress of American Indians (NCAI) and Chairman of the Jamestown S'Klallam Tribe located in Washington State.

NCAI views the FY2000 federal budget process as an opportunity to begin to set a better course for federal Indian policymaking in the next century. Tribal governments have found themselves in an increasingly defensive posture in the development of federal Indian policy over the last four years, and budget cuts and budget riders have been the point of attack on tribal self-determination. Leaders from Indian Nations across the U.S. gathered on the first days of the 106th Congress on January 5th to 7th, 1999 to define a course of action for themselves, and the FY2000 budget is an important part of their planning. Tribal governments have developed an *Agenda for Progressive Federal Indian Policies in the 106th Congress* (attached) to renew their historic relationship with the federal government, affirm and educate on the justice of tribal sovereignty, and create a climate of positive relationships for the benefit of Indian people and the entire United States.

First, tribal leaders have set as an important goal that the tribal budget must become a higher priority within the appropriations process. The federal government has treaty and trust obligations to support Indian tribes that it is simply not meeting. Also, tribal citizens pay federal taxes but receive little support from federal funds that go to states. Programs serving the American Indian and Alaska Native population have rarely received the federal funding required to fulfill even the most basic needs and funding for Indian programs has lagged far behind the funding of non-Indian programs. Compared to all other sectors of the American populace, American Indians and Alaska Natives most often rank at or near the bottom or top of most social and economic indicators, whichever is worse. Of the 558 federally-recognized Indian tribes, a great majority of their populations are characterized by the most severe unemployment, poverty rates, ill-health, poor nutrition and sub-standard housing in the U.S. In an era

of federal budget surpluses, there are no excuses for failing to meet the federal obligation to remedy the human tragedy behind the statistics.

Second, the solution for the poor conditions in Indian Country must be a reinvigorated approach to economic development. The federal budget for FY2000 can do much to build the necessary infrastructure of roads, schools, housing, child and elder care, hospitals, clinics, technology, law enforcement, courts and other critical elements of any functioning economy in the United States. The United States has an obligation to help rebuild the shattered infrastructures of Indian Nations and create the opportunity for economic prosperity that will benefit not only Indian people, but the entire American economy. It should also be noted that the conversion of welfare entitlement funds into state discretionary funding has added to the urgency felt throughout Indian Country to boost economic development.

Third, the use of appropriations riders to ambush tribal self-government has become more and more frequent. Tribal self-government is recognized in the United States Constitution and hundreds of treaties, federal statutes and Supreme Court cases and is deserving of serious consideration by the Congress. At the very least, if the federal government is going to contemplate legislation affecting tribal self-government, the legislation should be considered in the authorizing committees, given opportunity for consultation with the affected tribes, and taken up as stand-alone legislation where Members of Congress can know and understand what they are voting on. We have been made aware of the introduction of Senate Resolution 8 by Senators Ted Stevens and Robert Byrd. S. Res. 8 would amend the Senate rules to reinstate a former rule which prohibited legislative riders on appropriations bills and which would require a three-fifths vote to waive a point of order under the rule. NCAI would urge the members of the Senate Committee on Indian Affairs to support S. Res. 8.

As Congress begins to shape the FY2000 budget, the NCAI urges an increased investment in Indian programs and tribal government infrastructure. We believe that the President's FY2000 budget request has taken a positive step in that direction. The following testimony is an overview of the recently released President's FY2000 budget request that provides NCAI's viewpoint on sections of the budget that are most critical to tribal governments. NCAI would like to express its appreciation for information and funding recommendations from regional and national Indian organization, including the National Indian Education Association, the National Indian Health Board, the National American Indian Housing Council, the National Indian Council on Aging, the National Tribal Environmental Council, the Native American Rights Fund, the Northwest Portland Area Indian Health Board, the California Indian Manpower Consortium, the Indian and Native American Employment and Training Coalition, and the Inter-Tribal Agriculture Council.

II. Background Information

When comparing trends between FY1975 - FY1999 for the total BIA budget and the federal non-defense budget as a whole, federal spending as a whole increased at a rate of \$41 billion a year, with an average level of \$669.8 billion, while when corrected for inflation, the BIA budget actually declined by \$10 million a year, on an average spending level of \$1.7 billion. Throughout the entire FY1975-FY1999 period, per capita spending on the U.S. population as a whole consistently increased, whereas per capita spending on Indians through major Indian-related programs began to fall after FY1979.

Furthermore, in FY1996, federal funding for Indian programs fell short 13 percent or \$581 million from the President's budget request for that fiscal year. This was mostly seen in dramatic cuts in funding for the BIA (\$322 million less), Department of Housing and Urban Development (HUD) New Indian Housing (\$134 million less), and the Indian Health Service (IHS) (\$80 million less). In FY1997, funding for these programs fell short 4.1 percent or \$175 million below the President's request. And in FY1998, there was a 1.2 percent or \$52 million shortfall from what the President requested. In FY1999, this unfortunate trend continued with a \$100 million shortfall.¹ Mr. Chairman, in a year when the U.S. economy is booming and the federal government is expecting over seventy billion dollars in surplus funds, the federal government should not be cutting funds to American Indians, this nation's poorest people.

As you are well aware, in recent years tribes have faced extraordinary challenges throughout the appropriations process. Unprecedented reductions in federal Indian program funding left many tribes facing extreme circumstances. Non-funding "riders" attached to Interior Appropriations bills reached well past the scope of the appropriations process and were interpreted by Indian Country as an attempt to diminish tribal sovereignty and change the basic fabric of the federal-tribal relationship. While we appreciate the commitment to balance the federal budget and reform the welfare system, we maintain that such laudable initiatives do not and should not preclude the federal government from fulfilling its trust responsibilities to Indian tribes throughout this great nation. In short Mr. Chairman, extraordinary budget reductions in federal Indian programs have created a state of emergency for many tribal governments.

NCAI is encouraged, however, with the Administration's FY2000 commitment to begin addressing some areas of priority concern to Indian Country. The Administration should be commended for its renewed commitment to Indian education. Reports indicate the Indian schools are in worst shape than any other system in the country, with a backlog of repairs exceeding \$800 million. The President's FY2000 budget

¹ See generally "Indian-Related Federal Spending Trends, FY1975-1999", Congressional Research Service (CRS), February 1998.

request includes a school construction and repair request of \$75.9 million to replace two schools, as well as complete urgently needed repair work at existing facilities. The budget also proposes a School Modernization initiative that would provide \$400 million in bond issuance authority for tribal governments over two years, as well as increases to school operations of \$27.5 million over FY1999 for a total investment of \$503.6 million.

As this Committee is well aware, Indian Country has faced a sharp rise in criminal activities and most tribes have severely inadequate basic law enforcement protections and services to address this problem. The proposed allocation of an additional \$20 million in the BIA as part of the multi-year law enforcement initiative in Indian Country will help support law enforcement in Indian communities through FY2000. NCAI is also encouraged by the Administration's request of \$100 million for the Office of Special Trustee, as well as the \$1 million request for a "Bring Back the Bison" program within the BIA.

As Congress begins the appropriations process for FY2000, NCAI aggressively seeks support from the Committee in reversing the decline in funding for federal Indian programs that we have experienced since FY1996. In general, we feel the President's FY2000 budget moves Indian Country in this direction. We are concerned, however, that even the Administration's request for certain essential tribal programs and services provided through the BIA and IHS remain seriously inadequate. Accordingly, tribal budgets are insufficient to meet the most basic needs of tribal populations.

The following testimony is an overview of the recently released President's FY2000 budget request that provides NCAI's viewpoint on sections of the budget that are most critical to tribal governments. As more specific information is released from the Administration regarding the details of the budget request, NCAI will provide further information to the Senate Committee on Indian Affairs and the relevant appropriations subcommittees regarding the priorities of the tribal government members of NCAI.

III. The President's FY2000 Budget Request

A. DEPARTMENT OF INTERIOR

1. Bureau of Indian Affairs

The President's FY2000 budget calls for \$1.9 billion to be allocated to the BIA, an increase of \$155.6 million over the FY1999 enacted level. The budget contains a request of \$1.7 billion for the Operation of Indian Programs (OIP), a modest increase of \$110 million over the FY1999 enacted level. Another component was the request of \$716 million for Tribal Priority Allocations (TPA), a \$17 million increase over FY1999. However, as important as these increases are to tribes, and despite the apparent

commitment to tribal self-sufficiency, self-determination and self-governance shown by the Administration in its budget request, this increase still falls short of providing adequate funding for critically needed tribal programs.

Although the Administration's budget request for FY2000 includes a \$17 million increase in TPA over FY1999, this increase is inadequate to meet the vital needs of tribal governments. TPA budget activity includes the majority of funds used to support on-going services at the local tribal level, including such programs as: housing, law enforcement, child welfare, education, natural resources management and other tribal government services. TPA gives tribes the flexibility to prioritize funds among these programs according to their unique needs and circumstances.

Over the past two decades, very little funding has been added to TPA to allow exercise of self-determination and self-governance. Further, in FY1995, TPA was drastically cut and critical tribal programs and services were severely impacted. Since then, tribal governments have increasingly fallen behind in their ability to provide services in their communities. These budget reductions clearly are contrary to and undermine the successes tribal governments have achieved.

Funding levels to TPA have yet to be restored to the FY1995 level. The small increases to TPA over the past few years have not been adequate to keep pace with inflation. The failure of the Administration to include a significant increase in overall TPA for FY2000 continues to hinder tribal governments' ability to provide for the essential needs of their communities.

Mr. Chairman, at the very least, the President's requested TPA increase must be supported by Congress. The enormous tribal program responsibilities associated with this budgetary category include the direct tribal operation of programs. Although the President's requested funding level for this budgetary category will help tribes address these needs, Congress is urged to increase the TPA budget category well beyond its current enacted level.

Also of concern within the BIA is the issue of contract support costs. The moratorium imposed by Congress in FY1999 on any new or expanded contracts, compacts or grants under Pub. L. 93-638 hampered many tribes' ability to continue their move towards self-determination. The President's FY2000 budget request for contract support costs includes a very modest increase of \$6.4 million to address the Bureau's continuing contract support cost shortfall, plus \$5 million for the Indian Self-Determination Fund to address the contract support cost needs of tribes taking on new BIA programs. These sums are woefully inadequate to make any meaningful inroad into a shortfall that continues to penalize tribes which elect to operate BIA programs under the Self-Determination Policy. They are also insufficient to cover the contract

support costs associated with the new FY1999 tribal law enforcement initiatives to be transferred to Tribes in FY 2000.

Per NCAI Resolution #MRB-98-036 (attached), Congress and the Administration are respectfully urged to reconsider these sums in FY2000 to finally close the gap in contract support cost funding. Although Congress is encouraged to support the President's increase, at a minimum, it is still just a small step in moving tribes back into the position of operating, on their own, the important programs which serve their communities.

Another major area of concern is BIA construction funding. The \$174 million request called for in the President's budget must be supported by Congress. As we reported to Congress last year, our schools, health facilities, courts, police and fire departments all have facilities that are in desperate need of repair and/or replacement. Included in this request is an increase of \$30 million for school construction. This will allow tribal communities the ability to address the vital needs of their children and improve the environments in which they learn. NCAI also supports the President's budget request for continued new funding for Public Safety and Justice construction.

Further, many tribal communities are still awaiting much needed new construction project funding to rehabilitate or replace a variety of facilities, including high cost projects such as dams, power plants and other infrastructure renovations. The President's budget requests \$22 million for the repair of high hazard dams on Indian lands. As reported by the BIA, these dams pose significant threat of loss of life, and at minimum, significant economic damage, both on and off Indian reservations. The Federal government is responsible for the maintenance of these structures and is ultimately liable for any damage which may occur as a result of their hazardous condition.

Each year, BIA facilities face increased safety hazards which must be addressed through proper maintenance and re-engineering projects that all require adequate levels of funding. The President's request of \$174 million for BIA construction projects is a laudable first step.

As reported to Congress last year, the management of Indian trust lands is in dire need of reform. The BIA manages over 55 million acres of land, 170,000 individual tracts of land, 100,000 active leases, 350,000 land owners, and 2 million owner interests. According to the BIA, the allocation of new resources is designed to "close the books on Indian trust management problems as we enter the next century by completing the replacement of core trust management systems, including the complete cleanup of all trust records in the Trust Asset and Accounting Management System (TAAMS)." NCAI supports the FY2000 budget request of \$100 million for the Office of Special Trustee,

which will provide \$65.3 million for continued implementation of the Trust Management Improvement Project.

The Administration and Congress' attempts to empower tribal governments to assume more management responsibilities over tribal program and service operations, create tribal jobs and develop sustainable economies that lead Indian Country into greater self-sufficiency are very commendable goals, and ones that are clearly shared by tribal governments. However, without adequate federal appropriations these objectives will not be achieved. Increased funding for programs and services under the BIA budget must be provided to ensure that the basic needs of this nation's first citizens are adequately met and our collective goals for a stronger economic base in Indian Country are fully realized.

a. Economic Development

Under the Indian Financing Act of 1974, as amended, guaranteed loans, direct loans, and grants were established for economic development in Indian Country. Unfortunately, since 1996 the grant programs and the direct loan programs have not been funded. As a result, the only program remaining under this Act is the guaranteed loan program.

Economic development conditions on reservations are dire. With welfare reform in full force, sustainable economic development is even more essential. Tribes need to develop economic development plans to reduce the severe impacts on tribal members and tribal governments. However, raising capital to start businesses on reservations is very difficult. Under the Indian Financing Act (IFA), grant money was used for technical assistance, but more importantly grant money was used as leverage for other federal programs. For example, the Department of Agriculture has a loan program that guarantees from 70 percent to 90 percent of the loan. Even though a majority of the loan is guaranteed, many Indian individuals and tribes still have difficulty raising the 10 to 30 percent equity needed to secure the loans. If the IFA grant program was still in existence, it could be combined with other federal loan programs allowing greater participation by individual Indians and tribes. Therefore, through NCAI Resolution #GB-98-004 (attached), NCAI requests at least \$20 million be appropriated to reestablish the IFA grant program.

Through NCAI Resolution #MRB-98-080 (attached), NCAI also requests that Congress appropriate \$10 million specifically for funding the BIA Office of Economic Development for the purpose of providing training and technical assistance for the development and expansion of reservation business.

b. Indian Education

NCAI commends the Administration for its continual investment in Indian education. President Clinton has proposed a total investment of \$503.6 million for BIA school operations, an increase of \$27.5 million over FY1999. This increase in school operations allows the BIA to educate approximately 12 percent of the American Indian K-12 population and will cover additional costs for teachers, transportation, and operations resulting from the growing student population in Indian Country. Of the \$1.4 billion request for the hiring of 100,000 new teachers, the President proposes to spend \$6 million to recruit, hire and train BIA teachers in order to reduce class size in the early grades. The FY2000 school operations budget supports the President's Executive Order 13096 on American Indian and Alaska Native Education which commits to improving the academic performance and reducing the dropout rate of Indian students.

The recent Indian Education Executive Order also cites the need for creating strong and safe environments for Indian students. To help meet this goal, and in accordance with the President's call for modernization of our schools, the Administration has requested \$108.4 million for BIA education construction, a significant increase of \$48 million over FY1999. This increase will assist in the replacement and repair of some of the 185 BIA-funded schools on reservations where 53,000 Indian students are currently learning in facilities that present serious health and safety threats. According to the Inspector General's office, Indian schools were in significantly worse shape than even inner city schools. Included in this increase is a new \$30 million Indian School Construction Bonding Initiative which will provide critically needed funds for addressing the growing backlog of health and safety deficiencies, which currently exceeds \$800 million, at BIA-funded elementary and secondary schools. Although NCAI urges Congressional support for S. 7, the Public Schools Excellence Act, as it would allow tribes to utilize the funding to issue qualified school construction bonds or other taxable bonds to replace or repair BIA-funded schools, this measure and other various school bonding proposals continue to lack bipartisan support. Therefore, NCAI recommends that the federal government, which is responsible for the education of American Indian and Alaska Native students attending BIA-funded schools, authorize and appropriate sufficient funds to complete all Indian education construction requests.

The remaining \$78 million in school construction funds will assist in replacing older, unsafe, and dilapidated schools, including the replacement construction of Fond du Lac Ojibway School in Minnesota and Seba Dalkai School in Arizona. NCAI fully endorses the notable funding increase request for school construction; however, with two-thirds of the education facilities over 30 years old, and more than one-quarter over 50 years old, the backlog continues to grow. Therefore, by NCAI Resolution #MRB-98-084 (attached), NCAI calls upon the Congress to support a 5-year construction plan of the Department of Interior to eliminate the deferred maintenance backlog of need by increasing education facilities construction, repair, and maintenance budgets for

FY2000 to FY2004 and to fully fund BIA-funded school construction within the next five years.

The following are NCAI's FY2000 budget recommendations for the following BIA Indian education programs.

Tribal Priority Allocations (TPA):

1. Adult Education. This program continues to be one of the most underfunded Indian education areas by the federal government. For FY2000, the Administration proposes \$2.6 million for Adult Education; however, the need is \$5 million to adequately fund tribally-based adult education programs. The BIA estimates that approximately 20,000 Indian adults who did not finish high school participate in the program in order to obtain their General Educational Development (GED) degree.
2. Johnson-O'Malley (JOM) Program. The FY2000 request is \$18 million, the same as FY1999. The funding need for this program should not be less than \$25 million in order to provide supplemental educational services for 272,000 American Indian students in 23 states.
3. Scholarships. The FY2000 request of \$29 million for undergraduate scholarships for American Indians has increased only \$2 million since 1996 and does not allow for the increase in the number of Indian students wishing to enter college or the increase in tuition costs which are out pacing inflation. The needs of Indian students pursuing post-secondary education are often neglected, especially when critically-needed programs are cut or eliminated such as the Department of Education's Office of Indian Education Fellowship Program.

Generally, the needs of American Indians tribal higher education programs have not been funded at stable and/or adequate levels, and inadequacy of funding is becoming more problematic under the TPA system. Therefore, per NCAI Resolution #MRB-98-075 (attached), NCAI calls for the increase in TPA allocation nationally for higher education.

Other Programs:

1. Indian School Equalization Program (ISEP) Formula. The President's FY2000 request is \$312 million for this program, which provides formula-based funding for 185 BIA-operated, grant, and contract elementary and secondary schools. The requested amount would provide \$3,199 per Weighted Student Unit (WSU) compared to \$3,125 per WSU in school year 1997-98. NCAI supports a funding level of \$3,500 per WSU and request an funding increase to meet this level.

2. Student Transportation. The FY2000 request for student transportation is \$38.8 million, a \$4 million increase over FY1999. In FY1997-98 the BIA-funded transportation cost was \$1.98 per mile with 15,197 miles (School Year 1996-1997) driven for day and boarding schools. According to the latest School Bus Fleet information, the national average for student transportation costs in school year 1993-94 was \$2.94 per mile for public schools. Therefore, the BIA-funded schools, which are located primarily in rural, isolated areas, are at least \$.96 below the national per mile average.

3. Tribal Departments of Education. The FY2000 budget request, as in years past, does not include funding to assist tribes in planning and developing their own centralized tribal administrative entities as authorized by Pub. L. 103-382, the Improving America's Schools Act. Per NCAI Resolution #MRB-98-003 (attached), NCAI recommends at least \$3 million for tribal departments of education to accomplish the original intent of the 1994 Act. This would be appropriate given the recent trend to convert more and more schools from BIA to tribal control.

4. Tribal Colleges/Post Secondary Schools. The President's FY2000 request for Tribally-Controlled Community Colleges is \$38.4 million, a \$3 million increase over 1999. NCAI supports \$40 million which would provide for an additional \$7 million for TCCC Operating Grants.

5. Post Secondary Schools. The FY2000 request is \$14.3 million and is an increase over FY1999 of \$2.5 million. The request includes funding for Southwestern Indian Polytechnic Institute (SIPI) and Haskell Indian Nations University. No longer in the post secondary schools category is the United Tribes Technical College (UTTC). NCAI requests that the amount for Haskell be increased to \$10 million since it is the only national institution dedicated solely to the post secondary needs of Indian students.

c. Public Safety and Justice

Of critical importance in the FY2000 BIA budget request is public safety on reservations. As this Committee is well aware, tribal governments are in desperate need of resources to combat crime within their communities. Last year, Congress provided \$20 million to the BIA to begin addressing the law enforcement needs of Indian Country. This year, the Administration is requesting another \$20 million increase for the continuation of this "multi-year" Presidential Initiative. Along with the increase in BIA funding for Indian Country law enforcement comes a requested \$124 million in the Department of Justice for law enforcement on reservations. NCAI also supports the President's proposed increase of \$2.6 million for tribal courts. Adequate funding for tribal courts is critical to ensuring the quality of Indian Country law enforcement efforts through a strengthened tribal judicial system.

d. Trust Funds Management

The President's FY2000 budget request includes \$100 million for the Office of the Special Trustee for American Indians (OSTAI), a significant increase of \$60.5 million over the current enacted level. Over \$88 million of this proposal targets OSTAI program operations, with \$65.3 million of that figure directed at further implementing the Trust Management Improvement Project. According to the BIA, this project includes a complete overhaul of the Trust Asset and Accounting Management System (TAAMS) currently used to manage trust asset accounts.

Other proposals include a \$10 million continuance fund for the Indian Land Consolidation project and a reclassification of over \$2 billion in tribal trust funds to the "non-budgetary" status, similar that of Individual Indian Monies (IIM) accounts. This reclassification serves to specifically acknowledge tribal ownership over these trust fund accounts, while affecting no change to the Secretary's obligations to service them.

We recommend the President's budget increase to help the OSTAI improve the Secretary's management of these accounts and to meet his goal of correcting a 70-year-old Indian trust fund mismanagement problem. However, the recent turn of events surrounding the Special Trustee's resigning under protest over the Secretary's decision to rearrange administrative authority over trust funds management is of major concern to tribes. The Secretary's actions seem to usurp Congress' intent to provide the Special Trustee with more independent authority over trust fund management activities. Proper management of Indian Trust Funds continues to elude the federal government, even though Congress and the Administration have attempted to correct this dysfunction.

Total reform of the current trust fund management system may be the only formidable solution at this point. However, legislation introduced in the 105th Congress as H.R. 2732, the Tribal Trust Fund Settlement Act of 1998, failed to propose adequate solutions to the mismanagement of outstanding trust accounts. This prompted the NCAI General Assembly to adopt NCAI Resolution #GRB-98-054 (attached), which opposes H.R. 2732 and urges Congress and the Administration to meet further with tribes to formulate legislation that will fairly and fully compensate tribes for the damages they have suffered due to the federal government's mismanagement practices over outstanding trust fund accounts.

NCAI strongly encourages the Congress and the Trustee to work more collectively with tribes to find an end to these mismanagement practices and begin reconciling outstanding accounts. The longer we wait, the more assured it is that the overwhelming amount of mismanaged and unidentified trust fund accounts will never be reconciled. Therefore, it is in the best interest of all parties that the reconciliation of IIM

and trust land asset accounts are resolved immediately. NCAI urges Congress and the Administration to stay committed, as tribes are, to achieving these goals.

e. Indian Reservation Roads

Funding for the Indian Reservation Road (IRR) program, which funds the construction and maintenance of public roads that provide access to and within Indian reservations, Indian trust lands, restricted Indian land and Alaska Native villages, is of critical importance to Indian Country. On average, only \$500 per mile and in some cases as little as \$80 per mile is available for Indian roads maintenance. In comparison, an average of \$2,200 is spent on maintaining other federal roads, and an average of between \$2,500 and \$4,00 per mile is spent by states. The BIA has only been appropriated \$25 million a year for maintenance of all reservation roads in the United States. As a result of insufficient funding, many roads in Indian communities are not sufficiently maintained and have to be shut down during the winter or become impassable other times throughout the year. The deteriorating road systems negatively affect the health and economic viability of all tribal communities.

Mr. Chairman, the Congress should fund the IRR program at an absolute minimum of \$300 million annually, as has been recommended by both the tribes and the BIA. This would begin the process of addressing the backlog of road construction projects. NCAI also urges Congress to provide \$15 to \$20 million annually for Indian reservation bridge construction and repair programs. These funds should come from the national bridge repair program and not from the IRR allocation. Finally, as a matter of policy, tribes should be provided direct access to the various federal discretionary programs, such as scenic by-way funding, highway safety, mass transit, and other programs.

f. Agriculture

In 1986, the BIA and the Department of Interior were directed to submit to the Congress a report on the effectiveness of Federal and tribal agriculture and range programs on the national level. This report was developed through direct consultation with tribes and was submitted to Congress in September of 1986. The "Indian Agriculture Working Group" was established by the BIA consisting of tribal representatives with experience in agriculture and ranching. After a review of all the national agriculture policies was conducted and hearings were concluded, thirty-two recommendations were submitted to the BIA. Subsequently, nearly all of these recommendations were included in H.R. 1425, the American Indian Agricultural Resource Management Act (AIARMA), which was enacted into law as Pub. L. 103-177.

The purpose of AIARMA is to require the Secretary of the Interior to provide for improved management of Indian agricultural lands by working with Indian tribes to carry out numerous programs. AIARMA required that an independent assessment of Indian agriculture land management practices be conducted as well as final regulations be

enacted within 18 months of the law being passed; to-date, neither have been completed. Other articles include: a preference to Indian operations for issuance and renewal of agricultural leases, the establishment of an Indian and Alaska Native agricultural education assistance program, and the development of a ten-year agriculture resource management plan for each tribe's land.

The primary purpose of Pub. L. 103-177 was to establish a policy for the BIA for management of Indian trust lands. As a basis for that policy, a need assessment to determine necessary budgeting and staffing targets was required. To this date, no assessment has been completed. Until this is done, Congress and the Departments will not have a clear direction in their responses to the Indian demand of rectifying this problem.

In 1994, the appropriated budget for this Act was \$1million dollars, ultimately increasing to \$16 million by 1998. To this date, no funds have been appropriated for this act. The need for agricultural assistance in Indian Country is immense and a land management plan is imperative. Therefore, NCAI urges Congress to provide the funds to fully support Pub. L. 103-177.

In 1996, another essential act was passed. The Food Agriculture Improvement Reform Act (Pub. L. 104-127), set forward an opportunity for an Indian borrower who is facing foreclosure, to transfer the loan to either the BIA or the borrower's respective tribe. Such transfers are not available under the present BIA policy. At this time, approximately 60,000 acres of Indian trust lands are in danger of being moved out of trust status through foreclosure. To prevent this, the regulations under Pub. L. 104-127 must be promulgated immediately. NCAI therefore requests that the appropriate actions be taken.

g. BIA General Assistance Program

The 1996 Interior Appropriations Bill included language which capped BIA General Assistance (GA) program expenditures. Such inadequate and limited appropriations have forced BIA and tribal social service programs to cut caseloads, leaving many potential recipients unserved. The enactment of recent welfare reform legislation (Pub. L. 104-193) places increasing strain on this program. As tribal members exhaust benefit time limits in Temporary Assistance for Needy Families (TANF) programs, many urban families will return home to their reservation and their family support network. They will also apply for GA, as they are no longer eligible to receive TANF. Without increased funding, GA cannot serve currently eligible tribal members in desperate need of support, let alone accommodate newly eligible recipients.

For the last several years, the BIA has been in the process of revising 25 CFR Part 20, "Financial Assistance and Social Service Program," which regulates, among other programs, the General Assistance program. In June 1998, the BIA made available a

working draft of the regulations and met with tribes in Green Bay, Wisconsin, for a day and a half to introduce the draft to tribes and to hear initial comments. In this forum, tribal leaders and social service directors voiced concerns about the dramatic impact the proposed revisions would have on tribal communities. Participants strongly objected to the lack of tribal input into the draft, the late release of the draft, and the lack of advanced notice for the introductory meeting. By far, the most substantial complaint was the lack of tribal consultation for regulations which propose to dramatically reduce the safety net program, General Assistance, which serves Indian people.

To date, no consultation plans have been released. Tribal communities are greatly concerned that the lack of adequate consultation on the part of the BIA will lead to a lack of understanding of tribal needs. Tribes anticipate that the administration will propose draft regulations that reduce the ability of tribal communities to sustain tribal members who are in need. For example, draft proposals that would make the General Assistance program unavailable to persons who have been sanctioned or terminated from an applicable TANF (Temporary Assistance for Needy Families) program for any reason, including an inability to find employment, are strongly objected by tribes.

Tribal communities already manage scarce resources and stretch those as far as possible. Further reductions in program funding and proposed program restrictions in a recently released draft of the revised 25 CFR Part 20 serve to undermine the Congress' intent of the General Assistance program and seriously threaten the quality of life in tribal communities. NCAI Resolution #GRB-98-003 (attached), calls upon the BIA to increase consultation and negotiations with tribal leaders over any proposed changes to 25 CFR Part 20, prior to any proposed social service regulations being forwarded to the Office of Management and Budget for clearance on publication in the Federal Register as a Notice of Proposed Rule Making.

2. Indian Health Service

a. FY2000 Funding

After last year's unacceptable \$2.1 billion budget request for the IHS - a mere 1.9 percent increase - the President's FY2000 budget request of \$2.8 billion is a step in the right direction in supporting tribal health care needs. However, this total includes an estimated \$39 million in Medicare, Medicaid, and private health insurance collections, making the adjusted Administration's request somewhere in the area of only \$2.412 billion. This adjusted total falls short of the requested minimum of \$2.62 billion tribal

governments advised the Administration and Congress to enact, minus any estimated health insurance collections, per NCAI Resolution #MRB-98-097 (attached).

A brief analysis of the President's budget request quickly identifies additional funding needs. The IHS reports that currently enacted funding levels only serve 36 percent of the projected need for Indian health care. Moreover, IHS statistics show a current inflationary rate that will require an additional \$30 million to compensate for current inflation alone. The \$400 million in increases to the FY2000 IHS budget listed below will help to significantly address outstanding funding needs in areas such as Contract Support, medical inflation rates, and program funding shortfalls. NCAI urges Congress to increase the President's FY2000 IHS budget in the following categories:

▶ Hospitals and Clinics	\$76 million
▶ Contract Health Services	\$33 million
▶ Contract Health Representatives	\$5 million
▶ Contract Support Costs	\$100 million
▶ Other Health Service Programs (including Urban, Dental, Mental Health, Alcohol/Substance Abuse Prevention, etc.)	\$100 million
▶ Facilities (including Construction, Sanitation and Maintenance & Improvement)	\$100 million

What these requested funding increases mean, in real terms, is that thousands of American Indian and Alaska Native people will have access to better and more increased health care services including hospital admissions, outpatient visits, dental services, mental health and social health services, public health nursing home visits, and community health representative visits.

b. Contract Support Costs

The President's budget request includes a \$35 million increase in contract support costs associated with IHS programs under tribal operation. Based on current levels of contracting, such an increase would certainly boost the levels of contract support payments to many tribes. But even if inflation is disregarded, it would still leave scores of the least funded tribes underfunded in the range of between 10 percent and 20 percent, depending upon which of several possible methodologies is used to distribute such an increase. (Possible methodologies include helping all underfunded tribes cover varying shares of their shortfall, as well as methodologies directing all such new funds only to the most severely underfunded tribes.)

At this time, it is unknown whether Congress will lift the Section 328 moratorium, in whole or in part. For its part, IHS is now actively exploring with Indian Country possible alternatives, including approaches which view FY 2000 as a second "transition" or "correction" year in which the vast majority of any effort continues to go toward addressing the ongoing contract support crisis faced by existing tribal programs.

These and other reform issues are being actively explored as part of IHS's initiative to revise the agency's contract support cost circular for FY 2000 by April 1999.

As with the BIA shortfall and per NCAI Resolution #MRB-98-036 (attached), the NCAI Workgroup on Contract Support Costs has strongly urged Congress to fully close the gap in the current IHS shortfall for FY 2000, estimated by IHS to be \$93.4 million plus unfunded pre-1999 inflation. As part of this effort Congress should restore the Indian Self-Determination Fund to at least \$12.5 million in FY 2000, and IHS should immediately begin canvassing Indian Country to secure an assessment of new contracting requirements needed for FY 2000 and FY 2001.

c. Contract Health Services

Contract health is an important component of Indian health programs, particularly in areas without IHS hospitals, where there is rapid business development, and where there are smaller tribes that tend to be contract health services dependent due to a lack of clinical services. To highlight the impacts of continued contract health funding shortages, the Great Lakes Intertribal Council conducted a Wisconsin tribes' study that identified sizable cost shifts to tribes, averaging around \$400,000 per tribe, per year for contract health services. These shifts equate to an approximate 70 percent shortage of federal funding for tribal contract health programs. The Wisconsin study also identified \$2.6 million in tribal contributions per year to cover these cost shifts, an amount equal to the funding levels Wisconsin tribes received from the IHS. This snapshot of contract health funding shortages in Wisconsin is a good example of the contract health funding shortages experienced by tribes in most other areas of Indian Country.

Vice Chairman Inouye alluded to the concerns over cost shifting contract health costs to tribes in his statement on Indian health care issues before this Committee on May 21, 1998. Moreover, NCAI Resolution #GRB-98-039 (attached) requests that Congress end the impacts of cost shifts to tribes by increasing funding for contract health by 70 percent, the amount identified by the FY2000 Indian Health Service Budget Tribal/IHS Task Force, and encourages further study of the issue of cost shifting, particularly for contract health services, by Congress and the IHS.

d. Urban Indian Health

With nearly half of the nation's Indian population living off-reservation in the urban areas of this country, the funding needs of urban health clinics continue to grow. The President's \$3 million increase in Urban Health services is a welcomed improvement. Tribal governments continue to share in the duties and responsibilities of providing health care for urban Indian individuals in conjunction with the federal government. For these reasons it is critical that clinical services, whether they are provided by the IHS, tribal governments, or urban Indian clinics, continue to receive increased funding to keep pace with the ever-increasing needs of service area populations.

e. Indian Health Care Improvement Fund / Comprehensive Health Emergency Fund

Under the President's \$12 million budget proposal for the Indian Health Care Improvement Fund, \$4.9 million will be lost in Special Pay Funding (physician compensation). NCAI requests an additional \$13 million allocation to this important program, allowing IHS hospitals to compete with the private sector in attracting top quality physicians. In addition, NCAI Resolution #MRB-98-116 (attached), calls upon Congress to increase the regular IHS scholarship appropriation from \$9.6 million to \$20.9 million, providing the necessary funding to accommodate an additional 432 health professional students in FY2000. NCAI also requests an additional \$8 million added to the President's \$12 million request for the Comprehensive Health Emergency Fund, bringing that fund's total up to the level requested by tribes to meet the projected need in Indian Country.

f. IHS Medicaid Per Capita Expenditures

As reported to Congress last year, a growing disparity exists between Indian and non-Indian citizens in per capita expenditures for Medicaid patients. Current IHS Medicaid statistics reflect a \$3,300 per capita expense for non-Indians, compared with a \$1,400 per capita expenditure for Indian patients, a disparity of nearly \$2000 less expended on Indian Medicaid patients. Per NCAI Resolution #MRB-98-111(attached), Congress is urged to allocate funding levels necessary to close the enormous disparity in the per capita amount of health care costs associated with IHS hospital facilities throughout the nation, a move that will help balance out the inequities between Indian and non-Indian per capita Medicaid expenditures.

g. IHS Facilities Funding

Tribes have reported to NCAI that recent fiscal year decreases in overall federal funding for IHS Facilities maintenance and construction have left facilities struggling to keep pace with the needs of their service areas. Old facilities continue to experience the need for major improvements, and some service areas have grown to the point of requiring the construction of new facilities. NCAI has two resolutions that address IHS Facilities funding needs. The first, NCAI Resolution #MRB-98-099 (attached), calls upon Congress to funding for the construction, maintenance and improvements of health care facilities. The second, NCAI Resolution #MRB-98-015 (attached), seeks an additional \$1.5 million in operating funds for the Lawton Hospital in Oklahoma. This funding is necessary to better staff and operate the only accessible hospital for several tribes in western Oklahoma.

Most IHS facilities throughout Indian Country require specific, quantified levels of funding to operate effectively and efficiently for the patients they serve. Many of these

facilities, like Lawton, are the only upper-level health care facility in close proximity to remote tribal communities. Congress must continue to address the growth of tribal health service populations and the health care facility funding needs associated with that growth. To abandon this commitment will create turmoil and confusion within the regions that tribal, IHS and urban health care facilities serve. NCAI urges Congress to support the need for increased health care facilities in Indian Country by increasing the President's FY2000 budget request for IHS Facilities funding by \$100 million.

Sanitation facility needs continue to grow in the more remote parts of Indian Country, and especially in Alaska Native villages. With over \$1.687 billion in sanitation deficiencies identified by the IHS as of FY1998, the President's requested increase of \$3 million falls short of any realistic commitment to improve tribal sanitation services. NCAI urges Congress to appropriate an additional \$10 million in IHS sanitation facilities funding, with \$5 million earmarked for the Alaska honey-pot eradication project.

h. Y2K Initiative

The integrity of IHS/Tribal/Urban Indian (ITU) health care information systems are compromised by the Year 2000 (Y2K) computer problem. Congress approved funding for FY1999 to begin addressing the magnitude of problems surrounding Y2K. NCAI Resolution #MRB-98-038 (attached) urges Congress to continue Y2K funding in FY2000, allocate a portion of those funds to the Indian Health Service to adequately address the number and diversity of ITU health information systems, and direct the IHS area offices to conduct full consultation with ITU's over the distribution of such funding.

i. IHS 638 Moratorium

In FY1998, a one-year moratorium on Pub. L. 93-638 contracting and compacting of IHS programs was enacted as part of the FY1998 IHS appropriations (Section 326). This moratorium was extended through FY1999 as part of last year's IHS appropriations law (Section 341). NCAI went on record both years opposing such moratoriums. NCAI Resolution #MRB-98-046 (attached) also opposes Section 341 of the FY1999 IHS Appropriations law as a direct assault on tribal sovereignty by eliminating the rights of Alaska tribal governments to contract or compact. This resolution also considers the moratorium an impediment to Congress' intent of expanding self-determination in Indian Country, and contrary to the government-to-government relationship between tribes and the federal government. NCAI urges Congress to repeal the IHS "638" moratorium and oppose any legislative initiatives that would weaken any tribal authority to contract or compact.

j. Tobacco Settlement

Tobacco Settlement legislation was a major legislative initiative in the 105th Congress which provided significant concerns for tribal governments. IHS statistics show that

Indian people suffer from tobacco related illnesses in far greater numbers, per capita, than any other population sector in the United States. Because of this, NCAI's member tribes adopted NCAI Resolution #GRB-98-011 (attached) that supports provisions which would allocate a fair share of any new taxes or funds resulting from a tobacco settlement to the IHS budget. This resolution also calls upon the IHS to develop a tribal consultation process for the distribution of funds resulting from increase tobacco taxes or tobacco settlement monies, and, in the event that funding is directed to state governments only, states would then be required to fund tribes at an equitable level for tobacco related illnesses.

k. IHS Self-Governance Program

NCAI commends the work of the U.S. House of Representatives in last year's passage of H.R. 1833, which would establish permanent authorization of the IHS self-governance program. Such legislation was developed by tribal self-governance and non-self-governance leaders, the IHS and the DHHS policy staff. NCAI Resolution #GRB-98-014 (attached) formally calls upon the Congress to consider and approve the passage of permanent authorization for the IHS self-governance program as quickly as possible.

l. Elevation of the IHS Director

NCAI Resolution #GRB-98-010 (attached) also urges Congress to elevate the IHS Director position to that of Assistant Secretary within the DHHS. Currently, the Director of the IHS, the top administrative official charged with carrying out the federal responsibility for Indian health, does not report directly to the DHHS Secretary. NCAI, along with tribal leaders and tribal health care professionals feel that in order for the IHS to operate efficiently and effectively and have its needs best served by the DHHS, that the head of the IHS must be elevated to the level of Assistant Secretary. NCAI urges Congress to pass such legislation at the outset of the 106th Congress.

m. Tribal Participation in IHS Fiscal Year Budget Development

Along with the \$2.62 billion IHS FY2000 funding level request mentioned above, NCAI Resolution #MRB-98-097 (attached) charges the NCAI to urge Congress to direct the IHS to work collectively with NCAI, tribal governments, the National Indian Health Board, the IHS Tribal Self-Governance Advisory Board, the National Council on Urban Indian Health, and regional Indian health boards to develop an IHS budget that adequately addresses the significant needs in health care throughout Indian Country. Quality health care continues to be one of Indian Country's top priorities. It is common knowledge that the IHS has been historically and grossly under-funded, leading to inadequate medical services, facilities and treatment programs within many reservations and urban Indian communities. Because of this, Indian people continue to

suffer the highest levels of chronic diseases, infant mortality, teen suicide and substance abuse than any other population sector in the nation.

Over 1.5 million American Indians and Alaska Natives receive health care services from the IHS. In many remote areas of Indian Country, IHS services are the only health care services available. As unacceptable as Indian health care statistics were during times of enormous federal deficit, such statistics are absolutely unconscionable in times when the federal government enjoys a sizable budgetary surplus. Congress is urged to substantially increase the IHS budget as a way of improving the status of Indian health and meeting the critical rise in projected health care needs throughout Indian Country.

3. National Park Service

The Native American Graves Protection and Repatriation Act (NAGPRA) (Pub. L. 101-601) was signed into law to ensure that Native American human remains and sacred objects retained by federal, state, and local governments, universities, and the museum community, are returned to the appropriate tribes and/or descendants. The law also ensures that burial sites on tribal and federal lands are properly protected. Since the passage of this law, activities have intensified in a number of areas, including the completion of summaries and inventories, as well as a variety of successful repatriations. While the process is moving forward, many tribes still finding themselves in very tough positions, with very little resources and limited staff available to complete the work necessary to properly fulfill the mandates of the law. In many cases, government agencies, museums, and universities have resources and staff persons available to implement the requirements of the law, while tribes must locate qualified staff and develop new programs.

Despite a continual tribal request for NAGPRA related grants of \$10 million from FY1994 through FY1999, to date, the Administration has requested and Congress has appropriated only a fraction of that amount, \$2.4 million. This funding level is far below the projected amount necessary to successfully comply with the provisions of the Act and well below the \$10 million level. The protection and return of our ancestors and their sacred objects is of vital concern to our member tribes and in order to be equal partners in the NAGPRA process, tribal governments must be provided with sufficient funding.

Another law on which many tribes rely for the protection of cultural and historic resources is the National Historic Preservation Act (NHPA) (Pub. L. 89-665) . The National Historic Preservation Act provides one of the few legal options available for tribes to protect sites of historic and cultural significance. In 1992, NHPA was amended to authorize tribal governments to assume the responsibilities of State Historic Preservation Offices (SHPO's). The 1992 amendments also include important provisions that apply to federal actions that would affect cultural and sacred sites outside reservation boundaries. Not only does this language underscore current

policy, including the President's Executive Order on Sacred Sites (No. 13007), but more importantly, the 1992 amendments added a requirement that the federal agencies notify tribal governments and invite them to participate in Section 106 consultation if a proposed federal action might affect a National Register site that has cultural or historic importance to the tribe.

Currently, there are 17 tribes which have signed agreements with the National Park Service regarding assumption of SHPO duties since the drafting of agreements began three years ago. This has eased the burden on many federal and state agencies, and has also opened the door for many tribes to have direct control over the protection and preservation of sites that are important to the community. According to the Administration, in this year alone, it is expected that at least six more tribes will assume SHPO responsibilities. The President's FY2000 request of \$2.5 million for historic preservation is a positive step. However, the Keepers of the Treasures recently reported to the Administration and Congress that the needs of tribal governments exceed \$10 million. In order to preserve the vast history and cultural traditions of our people, NCAI calls upon Congress to fulfill its duties to Indian people and appropriate the additional funding requested, which is necessary to protect these invaluable cultural resources.

4. Institute of American Indian Art

The Institute of American Indian Art (IAIA) is a national fine arts college devoted solely to the teachings and preservation of American Indian and Alaska Native arts and culture. Since its inception in 1962, the Institute of American Indian Art (IAIA) has educated over 4,000 American Indian and Alaska Native students. NCAI is cognizant of the positive impact the IAIA has on the recognition of American Indian and Alaska Native cultures via the arts, and is strongly committed to the continuance, preservation and enrichment of the IAIA.

The President's FY2000 budget request calls for \$4.25 million for the IAIA, a \$50,000 reduction from the current enacted level of \$4.3 million. Concerns continue to mount over what seems to be a decrease in Administrative support for the IAIA. Tribal leaders have voiced opposition to any efforts which may seek to further reduce federal funding for the IAIA, a move that would truly hurt Indian Country's efforts to preserve a significant part of its cultural identity. As directed by NCAI Resolution #SFE-97-049 (attached), NCAI strongly opposes any IAIA funding decrease and encourages Congress to continue its support for the IAIA by considering the current enacted funding level as an appropriation minimum for FY2000.

B. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department of Housing and Urban Development (HUD) FY2000 budget request for the Indian Housing Block Grant Program remains at the FY1999 enacted level of \$620

million. The National American Indian Housing Council (NAIHC) has determined that the base funding required to begin to address the housing shortage in American Indian communities is \$972 million.

The National Rule Making Committee under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (Pub L. 104-330) has estimated a funding projection of \$620 million; a request of this amount simply perpetuates the funding inadequacies affecting American Indians today. Currently, 40 percent of Indian reservation housing is considered substandard; this is in stark contrast to the national substandard housing rate of 5.9 percent. This disparity translates to an inadequate housing ratio of over 6:1. Despite Secretary Cuomo's recent comments on the state of Indian housing and HUD's overall proposed budget increase of \$2.5 million, no additional money for new Indian housing was considered.

There is an estimated 200,000 homes that are considered of inadequate and/or substandard condition on Indian reservations. For this reason, NCAI requests an additional \$352 million to meet the total need of \$972 million, including \$32 million to be set aside for Title VI, a program which establishes Loan Guaranteed Subsidies to offer alternative financing and opportunities for Indian Tribes. This enables tribes to establish partnerships with the private sector and other financial institutions. An additional \$6 million is requested for the Section 184 Loan Guarantee Program to be set aside for individual mortgage guarantees.

C. DEPARTMENT OF JUSTICE

There is a sharp contrast in public safety on Indian reservations verses the rest of the United States. According to a recent report completed by the Justice Department, American Indians are victims of violent crimes at nearly twice the rate of the all Americans.² From 1992 through 1996 the average annual rate of violent victimizations among Indians 12 years and older was 124 per 1,000 residents, compared with 61 for African Americans, 49 for whites, and 29 for Asians. This disparity in the rates of violence affecting American Indians occurs across age groups, housing locations, income groups, and sexes. American Indians are also more likely than people of other races to experience violence at the hands of someone of a different race, and the criminal victimizer is more likely to have consumed alcohol preceding the offense.

Unfortunately, many of these violent crimes remain not only unsolved, but not even investigated, due to a lack of law enforcement resources. For most Native Americans, the level of law enforcement services that many Americans take for granted rarely exists on or near Indian lands. According to the FBI's Uniform Crime Report, there are 2.9 police officers per 1,000 citizens in non-Indian communities, while on Indian

² *American Indians and Crime*, Bureau of Justice Statistics, February 1999.

reservations there are 1.3 officers per 1,000 citizens. Only 1,600 BIA and tribal uniformed officers are available to serve an estimated 1.4 million Indians living on or near Indian reservations. There are only 70 jails located within Indian reservations and only 10 are suitable for juveniles. Most of these facilities are in deplorable and unsafe conditions.

Pursuant to the federal trust responsibility, the United States has an obligation to maintain public safety and criminal justice in Indian Country by supporting tribal law enforcement and justice systems. With the current public safety crisis in Indian Country, President Clinton has directed the Attorney General and the Secretary of the Interior to consult with Indian tribes in developing mechanisms to better enable the United States to accomplish its responsibility. During this consultation process, tribal leaders and law enforcement officials unanimously identified inadequate funding as a primary cause of the increase in violent crime in Indian Country.

NCAI fully supports the President's \$144 million request to fund this "multi-year" joint Department of Justice (DOJ) and Department of Interior (DOI) initiative to fight crime and bolster judicial systems in Indian Country. The \$124 million in new and redirected DOJ funding and the \$20 million in additional DOI law enforcement funding will go far in addressing the current public safety crisis on tribal lands. NCAI fully endorses the Administration's commitment to increasing the number of police officers and improving the quality of detention facilities in Indian Country through anti-crime grants to Indian governments and supports the following requests:

1. In the U.S. Attorneys Office, \$3.2 million and 26 positions in additional resources will support an initiative to augment current investigative and prosecutorial efforts in Indian Country.
2. In the Office of Justice Programs, NCAI also welcomes the \$10 million in Drug Testing and Intervention Program funds for grants to tribal governments. This funding will help tribes develop and implement comprehensive systems to combat alcohol and substance abuse in Indian Country.
3. \$5 million in Tribal Courts Program funds will help to assist tribal governments in the development, enhancement, and continuing operation of tribal juvenile justice systems.
4. \$20 million in Title V Grants for Local Delinquency Prevention will serve Indian youth by developing, enhancing, and supporting tribal juvenile justice systems.
5. \$34 million in State Correctional Facilities Grant Program funds will help to construct or expand adult and juvenile correctional facilities and jails in Indian Country.
6. \$2 million will provide for important tribal criminal statistics collection.

7. \$5 million in Police Corps Program funding will provide advanced educational opportunities for police in Indian Country.

8. In the Community Oriented Policing Service (COPS), \$45 million in COPS Public Safety and Community Policing Grants Program funding will be for additional law enforcement officers, equipment, and training.

Mr. Chairman, the Office of Tribal Justice and the Office of Justice Programs both serve Indian Country in many ways, most notably, through the multitude of grant programs that have recently been extended to tribal governments. These grant programs cover areas such as Corrections Programs, Drug Courts, Violence Against Women, Domestic Violence, Child Victimization Enforcement, and Juvenile Justice and Delinquency Prevention, just to name a few. Although some discretionary grant programs provide funding for tribal needs, such as the STOP Violence Against Women Discretionary Grant Program's four percent set-aside for tribes and tribal organizations, there are many other programs that do not. We urge Congress to consider similar direct funding initiatives for all programs that have a significant impact on tribal governments. Further, we ask that at a minimum that the President's budget request for OTJ and related programs be maintained.

D. DEPARTMENT OF EDUCATION

For FY2000, the Department of Education has requested \$77 million of Indian education. This request will allow the Department's Office of Indian Education (OIE) to fund formula grants to Local Education Agencies (LEAs), restore certain discretionary funding for OIE and national research activities through the Department's National Center for Education Statistics (NCES). NCAI fully supports this funding for OIE as it promotes the President's education initiatives. The following are NCAI's recommendations regarding OIE funding by category:

1. Formula Grants to LEAs. For FY2000, \$62 million is requested OIE's formula grant program to public schools. The Department estimates that this funding assists 461,000 Indian students attending public schools and over 5,000 students attending BIA schools for a total of 466,000.

2. Special Programs for Indian Children. NCAI fully endorses the Department's effort to restore discretionary funding for certain OIE programs. The \$13.3 million request includes \$3.3 million for the Special Programs for Indian Children and \$10 million for a new American Indian Teacher Corps which would focus on the need to increase the number of qualified Indian teacher in the field. NCAI fully supports President Clinton's new centerpiece to recruit and train 1,000 new Indian teachers over a five year period who will then teach in schools with high concentrations of Indian students. Of the Nation's more than two million elementary and secondary teachers, less than one percent are

American Indian or Alaska Native. The lack of role models has contributed to the disproportionately high drop out rates and low academic achievement rates of Indian students. Overall, the Special Programs account, if funded, would continue the following two initiatives: 1) demonstration grants for early childhood and preschool education; and 2) preparation of Indians to take positions in teaching and school administration.

3. Special Programs for Indian Adults. Since 1996, this program has received no funding. NCAI requests that \$5 million be appropriated for this discretionary program devoted to increasing the educational skills of Indian adults.

4. National Activities. NCAI supports the Administration requests of \$1.7 million to augment the Year 2000 National Center for Education Statistics (NCES) Schools and Staffing Survey (SASS) and other research initiatives. The data collection effort would ensure that American Indian students are included in upcoming NCES surveys that will yield additional information on American Indian learners.

5. Tribal College Executive Order. At the release of the Department's budget, no numbers were available for funding recommendations for the Tribal Colleges Executive Order which was funded in FY1998 at \$200,000. NCAI has been informed by the Department that other agencies will have their resources combined for the order's implementation.

6. The National Advisory Council on Indian Education (NACIE). Over the past two years, NACIE has been funded at \$50,000 to carry out its congressionally mandated role as a Departmental advisor for Indian Education. Although this funding allows for the two required meetings per year, the fifteen-member presidentially-appointed board has no permanent office and must rely on OIE staff to carry out minimal functions. NCAI is concerned that the Administration's request would neglect the inclusion of one of its own commissions, particularly in its obvious concern for Indian education. Therefore, NCAI requests that \$500,000 be appropriated for NACIE in light of their increased advisory role in the implementation of the Indian Education Executive Order signed by President Clinton in August, 1998.

7. OIE Fellowship Program. This program was last funded in FY1996 and represented a broad, non-targeted approach to ensuring Indian students participated in postsecondary education. At its peak, the program allowed approximately 150 Indian students annually to attend higher education institutions in fields as diverse as education to medical school. Although there has been increases in education funding, the American Indian higher education community has not been as fortunate. Complicating the situation is the fact that funding for higher education scholarships, at both the undergraduate and graduate levels through the Bureau of Indian Affairs and the Indian Health Service, have been

cut over 50 percent since 1996. NCAI recommends that the fellowship program be funded at \$5 million.

E. DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. Administration for Native Americans

a. ANA Program Overview

ANA administers its basic grant program in four distinct categories, including: 1) the Social and Economic Development Strategies program (SEDS); 2) an Alaska specific SEDS program primarily geared to governance; 3) an environmental regulatory enhancement program focused on tribal capacity building; and, 4) the native language program to preserve and revitalize native languages. The SEDS program includes a wide range of governance projects allowing for tribal constitution revisions and codes/ordinance development, social projects that are based on maintaining and fostering cultural traditions, and economic development projects covering a wide range of areas.

ANA economic development projects include not only the development of new enterprises but also the expansion of existing successful businesses. The majority of economic development projects are planning grants for architectural and engineering costs or grants that provide for economic development infrastructure (i.e. codes/ordinances development and creation of enterprise boards).

b. New ANA Initiatives

In FY1999, ANA began requiring a 401-(k) retirement plan for approved applicants funded by ANA. As a part of the fringe benefits package provided by the tribe to employees under the ANA project, ANA will fund at least five percent of the employer's share. This initiative will assist in creating a positive and viable retirement system in Indian Country and has received support from a sampling of tribes.

ANA has also leveraged an additional \$1 million in ANA funding along with \$1 million from the state of Hawaii for a total of \$2 million awarded in grants under the Native Hawaiian SEDS specific program. This program will assist Native Hawaiian communities in meeting their unique social and economic development goals.

c. Impediments to ANA Program Grant Expansion

ANA has been at level funding at 35 million dollars since 1995. In real terms this means that ANA has lost 20 percent of program dollars due to the inability of the budget to keep pace with inflation. Under current budgetary conditions, the ANA can

fund only about 25 percent of the grant applications submitted for each program. ANA could, however, fund many more grants if funding were available. In FY 1998, for example, ANA received 549 applications but was only able to award 188 new starts.

Since 1994, ANA has also lost 50 percent of its staffing. Of this total, one third has taken place in the current fiscal year. ANA has gone from 33.5 FTE to 16 FTE since 1994. In keeping with Native American preference in hiring, ANA planned on hiring Native Americans in those vacancies that were lost. However, budgetary reductions have stymied that goal. Staff cuts have also negatively impacted the ANA workload both in terms of customer service and necessary monitoring and analytical work on grant awards. FTE reductions have also impacted the mission of the Intra-Departmental Council on Native American Affairs, chaired by the ANA Commissioner.

Through its Native American program assistance, the ANA has moved many tribal and Native programs from dependency on federal services, or operating federally-mandated programs, to developing and implementing their own discrete projects. ANA continues to serve a large and diverse base of Native American communities and organizations, many of which have little in the way of resources and lack sustainable economic development opportunities. NCAI urges Congress to increase the President's FY2000 budget request of \$35 million for this agency to allow for increased grant awards and additional ANA staff. In doing so, Congress will show its support for the tribal self-sufficiency goals promoted by the ANA.

2. Administration for Children and Families

Within the Administration for Children and Families lies a host of Agencies, Bureaus and Divisions that regulate social service programs which are critically needed in Indian Country. Unfortunately, access to these programs and services is extremely limited, with tribal resources and consultation measuring only a fraction of what is provided to states and other non-tribal government entities. Agencies established for the purpose of serving tribal governments suffer the same dilemmas as tribes— i.e., the Division of Tribal Services (DTS), established under the DHHS/ACF to fulfill the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, Pub. L. 104-193).

The President's FY2000 budget request again fails to provide the Division of Tribal Services (DTS) its own discretionary program authorization and budgetary line-item. Because of this, the DTS continues to be forced to borrow scarce resources from other agency programs in order to provide services to tribal governments in the areas of Temporary Services for Needy Families (TANF) and Native Employment Works (NEW) programs. The ACF has tried to provide necessary funding to carry-out these duties, but it has become more and more obvious that without line-item funding authorization for the DTS, the ever-increasing needs of Indian tribes surrounding these social support programs will not be met.

NCAI again urges Congress to immediately authorize for FY2000, an initial \$10 million budgetary line-item for the DTS. As part of this authorization, NCAI again asks Congress to expand the DTS responsibilities beyond just TANF and NEW, to include social support related tribal services under the ACF including child care, child support and enforcement, and child protection services. Creating a more streamlined approach to serving tribal government social support program needs will benefit all parties involved in providing, obtaining and accounting for these services. NCAI also calls upon Congress to hold oversight hearing on welfare reform's impacts on Indian country. In this way, tribal leaders can report directly to Congress on their needs, goals and objectives surrounding the conversion of tribal cash assistance populations into tribal workforce populations.

Tribal governments have passed a series of NCAI resolutions pertaining to the lack of direct programs, services, and funding authority within the ACF. Most are tribal TANF specific, but others cover children's issues, disabilities, etc. The following is a brief description of these resolutions.

When welfare reform was enacted, provisions in the law called for state and tribal TANF grant funding levels to be based on FY1994 AFDC enrollment figures of those state and tribal populations. It was quickly apparent that accurate data from state AFDC programs did not identify Indian AFDC recipients from non-Indian recipients. Additionally, many tribes who chose to operate tribal TANF programs soon realized that their TANF caseloads were far exceeding the estimated FY1994 caseload numbers. To formally address this issue, NCAI Resolution GRB-98-021, calls upon Congress to amend the PRWORA to allow tribes the option of basing their TANF grant funding level formula either upon: (1) FY1994 AFDC enrollment levels, (2) the level of actual enrollments based on a tribe's experience in the first year of operating its TANF program, or (3) the current level of actual enrollment. In this way, tribes will be assured that they will receive appropriate funding levels to effectively administer their TANF programs.

Many tribal communities are located in remote areas, with little in the way of public transportation services, creating very limited access to welfare-related support services and programs not directly administered by a TANF agent. Such programs may include Medicaid services, the Food Stamp program and others. To help consolidate these program and service deliveries, NCAI Resolution GRB-98-046 calls upon Congress to create a one-stop shop option for tribal TANF offices wishing to provide other support services not directly related to TANF for their eligible members and service area populations. This one-stop shop concept would allow Indian people to receive such services as Food Stamps from their TANF office, along with having their eligibility determined for programs such as Medicaid.

Consultation with tribal governments over federal Indian program regulations have always been minimal outside of the traditional BIA/IHS regulatory arena. Such lack of

consultation has been the experience of tribes with the promulgation of tribal TANF regulations. This runs counter to the President's Executive Order No. 13084, which calls for increased direct consultation between tribal governments and the federal government over issues such as regulatory development. Because of this lack of consultation with tribes over the tribal TANF Notice of Proposed Rule Making (NPRM), NCAI Resolution MRB-98-057 calls upon the Administration to suspend the promulgation process until tribes have been consulted with in a manner mutually agreed upon by tribes and the NCAI. NCAI Resolution MRB-98-059, also highlights specific changes to the current tribal TANF NPRM requested by tribes. We ask Congress to support these tribal positions by directing the Administration to seek further consultation with tribes over any further tribal TANF regulatory process as well as any other federal regulatory processes that directly impacts tribal programs and services.

In regard to the development of tribal Child Support and Enforcement programs, the PRWORA authorizes tribal government to apply for direct funding over an entire tribally-operated Office of Child Support and Enforcement (OCSE) program, or direct funding for OCSE program functions carried out by the tribe as part of a cooperative agreement with the state over child support enforcement activities. However, the OCSE has stated to tribes that they would not authorize any direct tribal OCSE funding until after regulations over such tribal program functions are promulgated. NCAI Resolution MRB-98-067 requests the OCSE provide funding prior to a final rule being promulgated so that tribes can immediately begin building the infrastructure and technological base to operate such a complex program. NCAI urges Congress to direct the OCSE to adhere to the request of tribal governments under this resolution.

Our disabled Native American population continues to suffer from a lack of attention by the Congress and the Administration. Disability cases in Indian country far exceed those in other population sectors on a per capita basis, with many being disabled veterans. NCAI wishes to highlight three resolutions that speak to the needs of our disabled people.

First, NCAI Resolution GRB-98-042, calls upon Congress to work with the Administration, and specifically, the National Institute on Disability Rehabilitative Research (NIDRR), the U.S. Department of Justice (DOJ), the Rehabilitation Services Administration (RSA) and the Administration on Children and Families (ACF) to establish and fund an American Indian Americans with Disabilities Act (ADA) Technical Assistance Center to serve American Indians and Alaska Natives, respectful of tribal sovereignty and cultural diversity.

Second, NCAI Resolution GRB-98-043, urges the NIDRR to meet tribal needs for assistance with persons with disabilities by funding no less than three Research and Training Centers (RTC's) to work with tribal people and their governments, both on and

off the reservation, in health, rehabilitation, and employment issues. NCAI urges Congress to direct the NIDRR to comply with the requests identified in this resolution.

Finally, NCAI Resolution GRB-98-050, calls for the support of a National Wheelchair Recycling Project, similar to a model project in Wisconsin. This project takes used wheelchairs destined for scrap and refurbishes them for additional use. In addition, this project provides a collective benefit for environmental protection, community services, assistance for disabled persons, and a venue for volunteer accomplishments. NCAI urges the Congress to support such noble concepts which provide mobility with dignity to temporary or permanently disabled Native Americans throughout Indian Country.

Many tribal communities continue to suffer from a lack of adequate infrastructure, economic development and other community improvement factors necessary to properly administer their own welfare reform programs. In order to achieve these community development goals, tribes must have adequate funding for economic development, technical assistance, data collection, construction, job training, children and family support services, housing, transportation, alcohol and substance abuse programs and tribal enforcement plans. If federal support is not offered to help tribes create jobs, sustainable economies and community well being, welfare reform may lead to forced relocation, or even starvation, for many Native American families.

3. Administration on Aging

Three provisions under the purview of the Administration on Aging, authorized in the Older Americans Act (Pub. L. 89-73, as amended), are of special importance to Native American elders. The first is aging grants for Native Americans authorized in Title VI of the Older Americans Act. The purpose of this program is to promote the delivery of supportive services, including nutrition services, to older American Indians, Alaska Natives, and Native Hawaiians. NCAI requests that the full \$30 million authorized for Title VI be appropriated in FY2000. Funding of this program provides key "front-line" services for 229 programs serving reservation elders, including congregate and home-delivered meals, transportation, and a wide variety of other services.

The second provision is Aging Research and Training, also authorized in Title IV. Activities supported under this program have helped organizations such as the National Indian Council On Aging (NICOA) gather knowledge about the problems and needs of Indian elders, and design and test innovative approaches to meet the needs of this rapidly-increasing population. Additionally, funds from this program have historically provided training funds for Title VI program directors. For FY2000, NCAI requests an appropriation of \$630,000 with at least \$130,000 earmarked for a continuing grant to NICOA to gather information on Indian elders and to quantify their needs. The remaining \$500,000 should be directed to grants for training Title VI service providers to better serve Indian elders.

The third provision is Ombudsman/ elder abuse prevention authorized in Title VII: Allotments for Vulnerable Elder Rights Protection Activities, Subtitle B: Native American Organization Provisions. Subtitle B was intended to assist in prioritizing elder rights issues and carrying out elder rights protection activities in Indian Country. With deteriorating economic and social conditions in many Indian communities, elder abuse is on the rise. Prevention programs for tribes are desperately needed--yet no funds have ever been provided for Subtitle B, despite an authorization level of \$5 million. State programs currently receive \$4.5 million for ombudsman services and \$4.7 million for prevention of elder abuse programs. However, these programs seldom, if ever, reach Indian Country. Mr. Chairman, we request that the full \$5 million be appropriated in FY2000 specifically for tribal programs as authorized in Subtitle B of Title VII.

During the coming year, Congress is expected to take action on a number of policy issues that will greatly impact Indian elders. Three of the more critical issues to be debated include reauthorization of the Older Americans Act (OAA) and the Indian Health Care Improvement Act; as well as the Administration's proposal to establish a National Family Caregiving Support Program, which has been included in Senator Daschle's bill, S. 10, to reauthorize the OAA. NCAI takes the following positions on these three issues.

First, the Older Americans Act was last reauthorized in 1992, with reauthorization long overdue. While appropriations for OAA programs can and do occur without reauthorization, programs serving Indian elders are at risk as the supply of discretionary funds dwindle. For this reason, reauthorization without major changes to existing targeting language is critical.

Second, numerous provisions in the Indian Health Care Improvement Act will require significant modification to better serve Indian elders. When hearings are scheduled for this purpose, the NCAI would like to voice its suggestions for amendments.

Third, the Administration's proposal for assistance to family care givers directs a large majority of the resources directly to states through the OAA. Unfortunately, as proposed, it does not direct any portion of these funds to Indian Country through the existing OAA mechanism--the Title VI program-- or directly to tribes. When these issues are heard, the NCAI would welcome the opportunity to suggest ways to ensure that Indian care givers can also receive adequate support.

Without exception, our tribal cultures teach us to honor and respect Indian elders so that our elders--the living expression of our heritage and highest values--can be teachers to us and to our children. We urge Congress to honor this mandate by providing adequate funding for those programs that impact Indian elders, to reauthorize the Older Americans and Indian Health Care Improvement Acts, and to ensure that Indian care givers are adequately recognized in any care giving assistance legislation.

4. Health Care Financing Administration

Indian Country has become increasingly aware of the impacts that major entitlement programs such as Medicaid, Medicare and the Children's Health Insurance Program (CHIP) have on their communities. Because of this, NCAI urges Congress to consider establishing direct tribal programs under the Health Care Financing Administration (HCFA), improve tribal access to existing HCFA programs, and mandate a significant increase in consultation between tribes and the HCFA over such program and service entitlements.

As highlighted above in our discussion on the IHS budget, a growing disparity exists between Indian and non-Indian citizens in per capita expenditures for Medicaid patients. We believe similar funding disparities exist for Medicare and are starting to emerge for the new CHIP program. In spite of these recent trends, recent statistics from the California Rural Indian Health Board and the Oneida Tribe of Wisconsin show a very low enrollment of American Indian and Alaska Native children in the CHIP program. The Balanced Budget Act of 1997, which created the CHIP program, and current HCFA consultation on the implementation of CHIP require state child health plans to prescribe procedures for the delivery of health care services to Indian children. As stated in NCAI Resolution #MRB-98-093 (attached), we must find ways to appropriately address the underlying reasons for these funding disparities and ensure that Indian people who are eligible for these programs can benefit from them. Moreover, Congress must focus on creating equitable funding streams from these important third party resources to the IHS/Tribal/Urban Indian (ITU's) health care entities that serve CHIP eligible Indian children.

There are a number of reasons that may help explain why these disparities exist and provide clues to how we might begin to overcome them. Many Indian people who would meet the eligibility criteria for these programs don't complete the application process, despite efforts by ITU's to encourage them to do so. For many, lack of transportation to distant eligibility offices, confusion about complex applications and documentation requirements, and inhospitable or culturally insensitive treatment by eligibility workers are barriers. These barriers could be overcome by providing funds for transportation and assistance with application and documentation processes and/or hiring and training more tribal members to serve as out-stationed eligibility workers in their own communities. These approaches would increase outreach, provide explanations of program requirements and benefits to tribal members, and assist applicants in navigating the eligibility determination process.

Certain financial requirements present more difficult barriers for Indian people in accessing these programs. Medicare requires payment of monthly premiums and certain deductibles and co-payments. While standard Medicaid programs do not require premiums, a number of Statewide Medicaid demonstration programs do impose premiums for some people; both standard and demonstration programs in some States

impose co-payments for certain services. A number of State CHIP programs also impose premium and cost sharing requirements. Indian people receive IHS-funded services without such requirements in recognition of the Federal trust responsibility for the health, safety, and welfare of Indian people. To charge premiums or establish cost sharing mandates on the delivery of health care to Indian people is offensive and inconsistent with their belief that health care is a pre-paid treaty right.

Section 404 of the Indian Health Care Improvement Act (IHCIA) already offers a means to address most of these problems by authorizing grants and contracts with tribal organizations. While an earlier version of the law authorized several million dollars between FY1981 through FY1984, funds were never appropriated and the specific funding authorization amounts were later struck rather than continued. NCAI urges Congress to re-establish funding streams under the IHCIA as a cost-effective way to maximize third party coverage and collections.

Funding disparities arise not only from the difficulties ITU's face in enrolling Indian people in Medicare, Medicaid, and CHIP, but from other causes, including outdated limits for Medicare reimbursements for IHS and tribal health facilities. Other Medicare-covered services, such as those provided by freestanding clinics or by physicians and other practitioners have become increasingly important in Indian health, as in other health care systems, where there is increased emphasis on more cost-effective outpatient care. However, such services non-reimbursable to IHS clinics and physicians - a situation that Congress could easily be corrected this year in the reauthorization of the IHCIA.

The growing prevalence of managed care in the U.S. health care system generally, and in Medicare, Medicaid, and CHIP, present special challenges for Indian people and the ITU's that serve them. Long before the term became popular in its current usage, Indian health programs were managing care. Due to widespread serious health conditions and limited funds, ITU's have long recognized and practiced early intervention, preventive care, case management, and pre-authorization of selective referrals for specialty care -- all hallmarks of managed health care.

Despite their expertise in managing health care services and costs, ITU's find it difficult to fit into the emerging managed care networks that are becoming increasingly common in Medicare, Medicaid, CHIP, and the private health insurance industry. Such networks may be unfamiliar with, or unreceptive to, the special characteristics and needs of the Indian health system. Some managed care systems recruit and enroll Indian people but refuse to reimburse ITU's for covered services if the Indian person went directly to the ITU provider they have used for years, without going through the new managed care gatekeeper first. Case management is often done by a managed care organization, unfamiliar with Indian beneficiaries' medical history and cultural context.

Reimbursement to ITU's, when is provided at all, is often inadequate to cover the cost of care.

The historic Balanced Budget Act of 1997 recognized some of these difficulties by exempting Indian people from the requirement that they be enrolled in the new Medicaid managed care State plan process unless there were an ITU participating in the process. However, the same protection was not extended to Medicaid managed care under the existing waiver processes, nor to managed care under Medicare or CHIP. Managed care is clearly the wave of the future. Exempting Indian people and health care providers may provide some short term relief, but in the long run, such an approach may simply produce the unintended result of leaving the Indian health system without the means to effectively participate and receive compensation from many public and private third party billing and collection systems.

We must look for innovative ways to build on the strengths of Indian health providers in managing culturally appropriate health care in ways that fit into emerging managed care networks. For example, Congress may examine the possibility of managed care organizations contracting with ITU's to perform gatekeeper and case management functions for Indian beneficiaries. Another option might be to explore the use of risk-adjusted reimbursement rates for ITU's as a way to cope with costly health care conditions connected with many of the beneficiaries they serve. In this way, cost overruns created from insufficient reimbursement rates developed on an average beneficiaries health care profile, a formula that does not account for extensive health care conditions, could be absorbed more easily. Congressional funding for research and demonstration projects like those eluded to above would be an appropriate way to begin addressing the concerns over health care delivery funding disparities in Indian Country.

Another primary reason for funding disparities may be the lack of long term care services in Indian Country. Long term care accounts for a large and growing part of Medicaid expenditures. There is a growing need for such services by Indian people; Indian elders are finally living long enough to need such care. However, providing needed long-term care to the elderly is growing increasingly complex. Relatives are increasingly unavailable to care for elders because they must work outside the home. IHS funding can only provide limited home health care through nurses and contract health representatives with no funding available for nursing homes or assisted living services, and tribally or privately operated nursing homes and assisted living facilities are scarce and costly to build and operate.

We are pleased that the President has chosen to focus more attention on long term care issues in recent years. However, proposals to date, such as the tax credit and long term care insurance, are likely to provide little help to meet the needs of the predominantly lower income population in Indian Country. We must have a comprehensive examination of the unmet needs and caregiving circumstances in order

to develop appropriate, cost-effective solutions. The National Indian Council on Aging (NICOA) is beginning to develop such a study on long-term care in Indian Country. NCAI urges Congress to support such endeavors and use the knowledge gained from these studies to justify increased funding in the area of long-term health care programs for Indian people.

In order to reduce the disparities in health care spending we must address the barriers noted above and others yet to be identified. NCAI cannot do so alone. For that reason, we were encouraged to hear the DHHS Secretary and the HCFA Administrator, address the NCAI 1999 Executive Council Winter Session and pledge greater consultation with Indian Country as well as a commitment to act upon what they hear. We also look forward to the Secretary's invitation for tribal leaders to join in developing future DHHS budgets, beginning this Spring with the FY2001 budget process. We have participated in the development of recent IHS budgets and welcome the opportunity to extend this process to the rest of the Department. NCAI encourages Congress to direct all cabinet-level departments and their agencies within the federal government to increase tribal access to the development of future administrative budgets.

It is important to institutionalize mechanisms to make the government to government relationship real and enduring in meaningful ways. State and local governments and their representative organizations have long enjoyed recognition and procedures to facilitate their regular input into the policies, operations, and proposals of the Executive Branch. We request that DHHS address our current resolutions, including NCAI Resolution #MRB-98-037 (attached), which calls for Tribal consultation on proposed Medicare reforms; NCAI Resolution #MRB-98-093 (attached), which calls for use of a portion of national CHIP outreach funds to be used for Indian populations and having States provide copies of CHIP plans to tribes; NCAI Resolution #MRB-98-062A (attached), which opposes any Congressional reduction in Medicaid appropriations as part of any fiscal year budget resolution, and NCAI Resolution #GRB-98-046 (attached), which, among other things, calls for the DHHS to develop, with tribes, a plan that allows tribes to determine Medicaid eligibility for tribal member Medicaid beneficiaries.

We appreciate the DHHS issuing a consultation plan and DHHS staff efforts to begin consultation discussions. We are also encouraged by the HCFA regional office efforts on consultation with tribes in their states and in their willingness to facilitate some Tribal/State dialogues. In conjunction with NCAI Resolution #MRB-98-093 (attached), we are especially pleased with DHHS' plans to consult with tribes on the implementation of state CHIP plans and the state mandate to describe CHIP accessibility to eligible Indian children through HCFA regional office consultation this spring. We also need to extend consultation beyond regional tribal matters to develop a mechanism to address national policy concerns in a regular and timely way.

We also appreciate the Administrator's recognition that it is important not just to listen but to do, to act on what is heard. In this regard, we are aware that HCFA provides resources to support regular national meetings with state Medicaid directors, as a whole, a smaller executive group, and through ongoing HCFA/State technical assistance groups that work on various issues. We would like to explore with HCFA how NCAI might jointly design a similar process for regular HCFA interaction with tribal governments to address the disparity issues noted above, as well as other emerging national policy issues of mutual concern.

Mr. Chairman, as previously stated to this Committee on May 21, 1998, during an oversight hearing on the unmet health care needs in Indian Country, NCAI urges Congress to fulfill its fiduciary duty to American Indians and Alaska Natives and to uphold the trust responsibility as well as preserve the government-to-government relationship, which includes the fulfillment of health care needs of all Indian tribes in the United States. This responsibility should never be compromised or diminished because of any Congressional agenda or party platform. Tribes throughout the nation relinquished their lands as well as their rights to liberty and property in exchange for these on-going services as well as this trust responsibility. Allowing tribal governments and their citizens a voice in determining the priority of meeting unmet health care needs in Indian Country is a positive step towards acknowledging the fulfillment of health care owed to all Indian tribes.

F. DEPARTMENT OF AGRICULTURE

Within the 54.4 million acres of Indian homelands remaining in the contiguous United States, nearly 47 million acres are used for production of crops, livestock or both. As such, commercial agriculture in Indian Country parallels off reservation agriculture in kind, but not in sale. Even though many farming tribes have abundant natural resources to work with, individual operators and farming tribes are in need of capital, more efficient administration of existing federal programs, and technical assistance.

Since 1990, the Extension Indian Reservation Program, authorized under the Food, Agriculture, Conservation and Trade Act, has been servicing Indian Country on a myriad of issues ranging from crop and animal production practices to farm business management. Each year of its existence, funding has decreased, reducing the number of extension agents servicing Indian Country. Currently, this program is barely surviving with 28 agents. The President's requested budget of \$5 million will cover the current applications, but it will not enable the program to grow and furnish additional needed extension agents. NCAI supports the requested increased amount of \$5 million for FY2000 and hopes that the Administration continues to see the value in this program and increase funding for FY2001 so that additional agents may be obtained.

As stated previously, Indian lands represent approximately 55 million acres, with 47 million acres made up of range and crop land. Despite such large land holdings, many

reservations are checkerboarded or fractionated, often preventing productive use of the lands. Under the Indian Land Acquisition Loans program, Indian tribes may obtain a loan to purchase privately held lands that lie within the reservation. Under this statute \$8,000,000 was authorized for this program. Unfortunately, only \$1,003,000 was allocated in 1999 and only \$1,028,000 has been requested for FY2000. The amount requested for FY2000 is not sufficient to correct the fractionated land problem. Therefore, NCAI requests that the full \$8,000,000 authorized be allocated to this desperately needed program.

In 1940, an inter-agency agreement was reached between the Department of Interior (BIA) and the United States Department of Agriculture (USDA) which required the BIA extend the same programs to Indians that are furnished to every land owner in the U.S. by the USDA. In that agreement, the BIA requested "assistance for services required in the performance of its overall trust management responsibility." Eleven years later the BIA and USDA entered into a memorandum of understanding to "work in partnership to improve the delivery of programs and services to better meet the needs of American Indians."

Both funding and staffing reductions within the BIA have resulted in a severe decline in the condition of Indian agriculture. Per the 1940 inter-agency agreement and the memorandum of understanding, the USDA has an obligation to assist the BIA in its overall trust management responsibilities. A USDA full time presence on farming reservations will assist in making up for the BIA shortfalls and bring adequate assistance from the Farm Service Agency, the Natural Resource Conservation Service and the Farm Service Agency, Farm Lending, back into Indian Country.

Finally, through NCAI Resolution #MRB-98-034 (attached), NCAI requests that the United States Congress take action to establish a tribal presence at USDA by passing legislation to create an American Indian and Alaska Native Office with sufficient financial and human resources at the Federal level through which tribes and tribal governments may directly access USDA services and programs.

G. DEPARTMENT OF COMMERCE

1. Minority Business Development Agency

For nearly thirty years, Indian tribes have operated business development centers throughout Indian Country. And yet it is only recently that the Department of Commerce, through the Minority Business Development Agency's (MBDA) - American Indian Program, has attempted to support these tribal initiatives.

Due to the fact that a majority of tribal communities are located in rural and remote areas of this nation, which accounts for the significant lack of economic opportunities available to them, Native American Business Development Centers (NABDC's) are usually the only type of business development centers that have direct contact with tribes and tribal communities. The MBDA has established nine minority business development centers on tribal lands, focusing primarily on providing technical assistance for the growth of Indian-owned and operated business enterprises. The MBDA has also established the Native American Program (NAP) mentioned above, to address the special needs of Indian tribes, firms and individuals interested in entering, maintaining or expanding their efforts in the competitive marketplace.

In FY1999, NCAI encouraged the Department of Commerce through the Minority Business Development Agency to establish additional tribal business centers to serve and improve resources and services to American Indian and Alaskan Native communities. Although additional funds were requested for the FY2000 budget totaling \$27.6 million, \$600,000 more than the agency's appropriations for FY1999, the creation of new business centers was not included in the budget.

Instead of additional NABDCs, the MBDA is expanding its digitally-based business development services. As such, it has introduced four electronic tools that are available to minority businesses to increase their access to markets. The first is the Phoenix Opportunity System which electronically matches businesses with contracting and other opportunities and automatically e-mails the business when a match is found. The second is the Resource Locator, an internet-based tool to locate business development resources. The third is the Market Analyst which provides sophisticated market research to small businesses. Finally, the fourth is the Virtual Business Centers which allows entrepreneurs to find information on the internet about different growth markets.

NCAI believes the majority of Native American entrepreneurs and small businesses in Indian Country will not benefit from such computer services. Many of the Native American business located on reservations are in the infancy stages, needing assistance with business plans and start up capital. Therefore, many do not have access to computers, the internet or even have the need for the more sophisticated services that the MBDA is offering to provide.

Indian Country in particular, with its geographic isolation, is at the forefront of need for technology. However, without technical assistance from agencies like the Department of Commerce to enable Native American business to get up to technological speed, Indian Country will always lag behind and ultimately never be able to benefit from the MBDA digitally-based business development services.

The MBDA is one of the only federal agencies attempting to help tribal governments comply with Congress' intent to create a more self-sufficient Indian Country through the creation of economic development opportunities, tribal jobs and sustainable economies

on tribal lands. Therefore, if the MBDC continues with this trend of increasing it digitally-based business development services, without providing the basic technical assistance that Native American businesses require, Native American businesses will ultimately be left behind.

NCAI will continue to request additional funding for the Minority Business Development Agency (MBDA), and its Native American Program (NAP) which has been made to operate at the same level of funding since 1987, despite an increase and growing need for tribal business assistance. In the last four fiscal years, congressional appropriations for the MBDA have been significantly reduced and threatened with total defunding.

Congress must not forget the unique relationship Indian tribes and Indian people have with the United States government and, by descent, with every federal agency. By its own commitment through treaties with the various sovereign Indian nations, the federal government is in a "trust" position with regard to resources and the economic future of Indian people. This relationship is different from the government's relationship with other minority groups, and because of this, business technical assistance to the tribes and Indian business-owners should not to be approached or reviewed the same as other minority programs. Particularly at this time in history, when Native Americans are just beginning to gain some opportunities to participate in a very real way in the U.S. economy, there is a need to continue to support and encourage self-sufficiency and self-determination in Indian Country. Therefore, NCAI again requests Congress to increase funding for the MBDA's - NAP, an agency program that has proven it's importance in helping scores of under served tribal communities in this country.

2. Small Business Administration

The Small Business Administration (SBA) has not always been well accepted or a successful program within Indian Country. A major problem is the aversion by the traditional SBA approved lending institutions to lend to Native Americans due to the mythical risk of dealing with tribal sovereignty and tribal courts. As a result, Native Americans have generally gone to the Bureau of Indian Affairs to access funding under their guaranteed loan programs. However, the President's FY2000 budget for the SBA may initiate a change in how Indian Country perceives and works with the SBA.

Sustainable economic development on Indian reservations is desperately needed, with unemployment rates on many western reservations as high as 70 percent. The President's FY2000 budget is a positive step in assisting Native Americans in accessing more forms of lending, technical assistance and equity capital.

The majority of loans that Native American businesses seek falls directly within the microloan realm. Therefore, NCAI supports the requested \$16 million in loan

guarantees under the Microloan program and the two-fold expansion of the number of microlenders.

NCAI also supports the appropriation request of \$40.9 million for the Small Business Investment Company (SBIC) program and the New Market Venture Capital Companies. Included within the requested SBIC funding is the “Low and Moderate Income” initiative which provides incentives for venture capital investing by SBIC’s in distressed communities. NCAI believes that within these programs the Tribal Business Investment Companies (TBIC) should be specifically identified as the vehicle to provide the incentives for venture capital on Indian reservations. Indian reservations are largely located in rural areas that are some of the most depressed areas in the country. As such, tribes are encountering great difficulty in obtaining venture capital. TBIC’s work solely with Native American businesses and have the expertise to know the intricacies of Native American business obstacles and needs. NCAI believes that a portion of the \$2.4 billion allocated to BIC’s should be directed to TBIC to serve tribal venture capital needs.

NCAI supports the \$4 million request for the complete implementation of the HUB Zones legislation to enhance government contracting opportunities to small business located in and employing residents of Indian reservations. This would allow Native American businesses increased opportunities to receive federal contracts and awards.

The President’s FY2000 budget includes a New Market Tax Credit incentive that would generate \$6 billion in private sector investment for business growth in low and moderate income rural and urban communities. Investors would receive a tax credit worth 25 percent of the amount invested. NCAI supports this tax credit since it gives tribes additional avenues to obtain capital for economic development in Indian Country.

NCAI additionally supports the \$5 million requested to increase technical assistance and executive development of 8(a) program participants, which includes Indian reservations. This request would nearly double the funding level provided in FY1999.

Finally, NCAI requests an increase to the \$1 million request for intensive assistance and outreach through Tribal Business Information Centers. NCAI believes that additional TBICs are needed to adequately serve reservations. Currently, there are 17 TBIC to serve the 557 federally recognized tribes and Alaskan Native villages. Presumably, one TBIC will provide technical assistance to 32 different tribes. The 17 TBIC are concentrated in 5 states, however, there are 33 states that have a federally recognized tribes in it. As a result, the majority of tribes are not being serviced by a TBIC and additional TBICs are greatly needed.

3. National Telecommunications and Information Administration

As the development of economic opportunities in Indian Country moves forward, the National Telecommunications and Information Administration (NTIA) is playing a

significant role in the establishment of the information superhighway in tribal communities. Leading the efforts to help tribes achieve this goal is the NTIA's Telecommunications and Information Infrastructure Assistance Program (TIIAP), which provides matching grants on a competitive, peer review basis for projects that enable communities to develop their telecommunications infrastructure.

The TIIAP has been essential in promoting the development of tribal community networks throughout Indian Country. Congress has also shown some support for these initiatives by the introduction of H.R. 555, the Native American Telecommunications Act of 1997, which states that "[t]he NTIA shall be responsible for designing and proposing policy initiatives to encourage investment in, and the deployment of, telecommunications systems on Indian lands."

An example of programs recent funding has been able to establish is the Alaska Pacific University Rural Alaskan Native Adult program that uses the internet to provide training and undergraduate degrees to the underserved adult learner.

To help ensure that this important work continues, NCAI supports the President's FY2000 request of \$20,102 million to promote tribal telecommunications and economic development opportunities throughout this nation's rural and disadvantaged tribal communities.

NCAI also supports the President's request for an increase in funding by \$14,055 million to \$35,005 million for Public Telecommunications Facilities, Planning and Construction. These monies will be used by the NTIA for modernizing existing communication systems located on Indian reservations.

H. DEPARTMENT OF LABOR

With the enactment of the Workforce Investment Act (WIA), the enduring Job Training Partnership Act (JTPA) has been repealed; most of its various job training programs were redesigned and incorporated into the new WIA programs. WIA includes tribally specific programs with guaranteed funding levels for such programs. However, the President's FY2000 budget request provides no increase for tribal WIA programs. In fact, the President's FY2000 budget request would allocate less funding for summer youth programs than the current level funding provided under JTPA. NCAI urges Congress to increase funding for FY2000 tribal WIA programs which is urgently needed for job training and related employment programs in Indian Country.

NCAI also requests the Congress to reauthorize the Welfare-to-Work (W-t-W) program for tribes an additional two years and to increase the funding level for this program by an additional \$30 million. Well over 65 W-t-W plans for tribal programs have been submitted to the Division of Indian and Native American Programs, with slightly over 100 tribes, intertribal consortia and Alaska Native villages covered under these plans.

Extension of this program is critical, along with a much-needed funding increase, in order to provide employment services for long-term welfare recipients into the next millennium.

The Senior Community Service Employment Program (SCSEP), authorized in Title V of the Older Americans Act (Pub. L. 89-73, as amended), provides important services for Indian elders. The SCSEP funds ten national sponsors, including the National Indian Council on Aging (NICOA), to train low income elders through community service agencies. NCAI requests an appropriation of \$484 million, a 10 percent increase, for Title V programs in FY2000, and maintenance of the provision for a guaranteed minimum allocated to the program serving Indian elders. The Title V program is especially important for Indian Country due to the significant need for many Indian elders to acquire job skills and supplement their very limited incomes, the high rates of unemployment found in Indian Country, and the great need for the community services these trainees provide.

I. DEPARTMENTS OF DEFENSE

The NCAI assisted the Department of Defense (DOD) in a coordinated effort through a year of collaboration and consultation with Indian Country in the development of the DOD American Indian and Alaska Native Policy. The Policy was released at the NCAI Annual Convention in October 1998. We look forward to a successful implementation of the DOD Indian Policy. Meaningful implementation will result in the continued funding of several DOD programs interacting with tribal governments and Indian businesses, some of which are tribally-owned and operated.

The NCAI supports the DOD request under Section 8050 of not less than \$8 million to work with tribal governments on the mitigation of environmental impacts, including training and technical assistance; related administrative support; gathering of information; documenting of environmental damage; and, the development of a system for prioritization of mitigation and cost to complete estimates for mitigation on Indian lands resulting from DOD activities. In regard to Environmental Restoration, Formerly Used Defense Sites (FUDS), we support the Department of Army Corps of Engineers request for \$225 million for remedial activities on Indian lands. These funds are used for environmental restoration, reduction and recycling of hazardous waste, and, removal of unsafe buildings and debris.

Last year, the DOD Office of Small and Disadvantaged Business Utilization funding streamlined access to the "5 percent Indian Incentive for Prime Contractors" program which provides up to \$8 million to prime contractors who utilize Indian-owned companies. This incentive program was made retroactive to FY1997. To ensure that Office of Small and Disadvantage Business Utilization continues to reach out to Indian Country to work with tribal and individual Indian entrepreneurs who seeking to work with DOD contractors, NCAI supports approval of the \$8 million funding request.

J. DEPARTMENT OF ENERGY

The Department of Energy (DOE) manages programs to mitigate and remediate Indian lands including ceded and former Indian lands contaminated by the Cold War legacy. Inadequate funding is detrimental to programs that institute: tribal involvement in decision-making processes; shipping of high and low level radioactive waste through Indian Country (whose jurisdictions do not have adequate emergency response programs in place to protect people, lands and resources); and, the siting of permanent repositories for spent nuclear waste on former traditional lands (under an arbitrary policy which inequitably supports non-Indian state and county governments for oversight activities, but does not involve tribes in geographical proximity and indigenous to the area).

The Nevada Test Site is within the traditional homelands of the Shoshone and Paiute peoples whose culture, environment, and health has been already impacted by federal government-sponsored atomic testing and other activities. The DOE Office of Civilian Radioactive Waste Management (OCRWM) has performed scientific and technical studies at Yucca Mountain on the Nevada Test Site for a proposed high-level spent nuclear fuel and radioactive waste permanent repository. The 16-year compilation of the Yucca Mountain study, the Yucca Mountain Viability Assessment, was released in December 1998. However, the Indian nations indigenous to the area do not have the technical staff to analyze the massive data.

Last year's DOE-OCRWM budget did not provide funding for oversight activities for the tribes indigenous to this area. However, \$16 million was given to the state of Nevada, nine Nevada counties, and one California county (designated local units of government under the Nuclear Waste Policy Act of 1987, as amended) for oversight activities at Yucca Mountain. This year, \$10.2 million has been requested for non-Indian governments. NCAI asks that this Committee end the disparate treatment of tribal governments by earmarking \$5 million for tribal involvement in the Yucca Mountain area. By funding the impacted tribes, Congress will transform the DOE-OCRWM's arbitrary policy of ignoring the tribes who remain in their homelands but are left out of the oversight process at Yucca Mountain.

The NCAI Nuclear Waste Program, funded through a DOE-OCRWM cooperative agreement, is a national information dissemination effort to provide tribal governments with updates on the implementation of the Nuclear Waste Policy Act of 1982, as amended. The long-range issues and impacts to Indian Country are significant and national in scope, but tribes do not have adequate staff or resources to track this program. The current NCAI Nuclear Waste Program year is the second under a renewed five-year cooperative agreement period. The Program budget is at its lowest funding level since its inception in 1982, and DOE-OCRWM did not request funding to continue this highly successful program and important link to Indian Country. In order

to sustain a viable program to provide tribal leaders with relevant and current information and assist in the interactive DOE process, the NCAI requests the Congress to direct the DOE-OCRWM to provide annual funding to the NCAI cooperative agreement in the amount of \$300,000 as part of its trust responsibility toward keeping tribes informed on programmatic impacts and maintaining open dialogue with impacted tribal communities.

The NCAI is making an effort to inform tribes located near nuclear utilities that the DOE Office of Nuclear Energy, Science and Technology budget has \$31 million in two programs. The Nuclear Energy Plant Optimization program, and the Nuclear Energy Research Initiative, will conduct research and development to advance nuclear energy, and to refurbish and upgrade those nuclear utilities whose licenses will soon expire and will have to apply to the Nuclear Regulatory Commission for relicensing. Several tribal communities are located within the 10-mile Emergency Planning Zone and the 50-mile Ingestion Pathway which are part of emergency preparedness plans for nuclear utilities. A community's readiness to respond to a radiological emergency event should be a critical part of the overall evaluation of a nuclear plant's license renewal. Many tribes are currently left unprotected and at risk in radiological accident scenarios. To better protect tribal communities in these critical geographical areas, we request the DOE direct a portion of this funding to be shared with tribes within the 10-mile Emergency Planning Zone and the 50-mile Ingestion Pathway Zone around commercial nuclear reactors.

The DOE Federal Preservation Officer (FPO) is funded through DOE Office of Environment, Safety and Health (ES&H), and oversees National Environmental Policy Act activities. The current FPO has worked with tribal environmental program managers and the NCAI on cultural resources protection and management issues. We are concerned that the FPO's responsibilities have been relegated to minimal outreach and programmatic functions. In light of the DOE Indian Policy, this office should be expanding its capacity to work with tribes instead of becoming less visible. Indian country has had a positive interaction with the FPO and we now urge the Congress to provide funding to this office for tribal outreach activities. We request the Congress to fund this office in the amount of \$500,000.

Under the DOE Office of Environmental Management Office of Public Accountability (EM-22), ten tribes have cooperative agreements to participate in site cleanup and waste management oversight activities. The DOE-EM program FY2000 budget request does not provide an increase for critical tribal program continuity. Adequate tribal program funding always has been a problem, despite the fact many federal sites slated for cleanup are former tribal lands or ceded territory and contain significant cultural sites. DOE-EM officials have suggested they are working to avoid negative impacts on tribal budgets, however their budget does not reflect this assertion. We request the Congress provide increased tribal funding for a total of \$6 million for the

cooperative agreements so as not to undermine tribal cleanup programs, and to provide funding for Indian outreach by organizations including NCAI.

Funding for the Waste Isolation Pilot Project comes primarily through DOE-EM. We are aware that DOE-EM has lowered funding allocation for emergency preparedness, public information, and accident prevention activities in the FY 2000 budget. The tribes on the WIPP transportation corridor in the designated corridors do not have adequate emergency response capability in the event of a radiological transportation accident. Emergency response organizations require several years to develop. In the interest of protecting tribal communities, NCAI requests that the DOE-EM's WIPP emergency preparedness funding be increased to \$1 million.

NCAI also supports funding for the following tribal programs: (1) Energy Efficiency & Renewable Energy - provides grants and technical assistance to tribes for weatherization, wind energy systems, hydropower, photovoltaic, and renewable energy technologies, \$5 million; (2) Fossil Energy - supports oil exploration and drilling research which is beneficial to tribes, \$540,000; (3) Defense Programs - educational and scientific outreach by national laboratories, \$750,000; (4) Economic Impact & Diversity - support for small business and educational grants \$200,000; and, (5) Bonneville Power Administration - cultural resources for Pacific Northwest Tribes, \$5 million.

Non-Indian organizations are being provided funding to conduct forums and policy analysis about tribal government participation and impacts. Tribal businesses and Indian organizations are capable of doing this work, probably at a more reasonable cost. We reject the notion that outside consulting and convenor groups like Aspen and Keystone are receiving funding to delve into American Indian and Alaska Native issues while they remain largely ignorant of tribal sovereignty and cultural matters. We believe such funding should be made available to tribes and Indian organizations, such as NCAI. A tribal organization will also protect tribal integrity, maintain confidentiality, and prevent breaches of protocol. NCAI respectfully requests this Committee recommend to the DOE the need change this outdated and unproductive practice of non-Indian intrusion.

K. DEPARTMENT OF VETERANS AFFAIRS

Adequate funding for Veterans programs is another critical concern of Indian communities. You know first hand, Mr. Chairman, that Native American veterans have served the United States with honor and distinction since this nation was founded. Compared with other segments of the population, Indian people have the highest percentage of veterans. According to the Veterans Administration, over 160,000 American Indians have served in the Armed Forces. Even during the Persian Gulf War, about one in three Marines who served were of American Indian descent. Our warriors also carry the proud distinction of being the most decorated group in this

country's history. Today, Native veterans have many pressing needs such as housing, health care, benefits, and other concerns that include issues unique to Indian country, such as the availability of service providers to geographically remote reservations.

We are encouraged by the Administration's continued support for the Native American Veterans Housing Loan Program, and NCAI supports the \$520,000 request within the President's budget. The Native American Veterans Housing Loan Program provides direct loans to veterans living on trust land. These loans are available to purchase, construct or improve veterans' homes. The principle amount of the loan under this authority is generally limited to \$80,000, except in areas where housing costs are significantly higher than costs nationwide. This pilot program began in 1993 and is authorized through December 31, 2001. Mr. Chairman, to date, there have been no defaults on any loans under this program.

As you know, the United States has an responsibility to Indian tribes and Indian people that supports its obligations to our veterans. In Congress and the Administration's attempts to meet the needs of Indian people, it is our hope that Native veterans programs will continue to meet the rising needs of this nation's first warriors.

L. ENVIRONMENTAL PROTECTION AGENCY

In 1984, the Environmental Protection Agency (EPA) became the first agency to implement an American Indian and Alaska Native Policy. Since that time, tribes have made progress toward regulating environmental quality standards within their jurisdictions and in a few areas where significant pollution has impacted the cultural integrity of their communities. As part of its trust responsibility to Indian nations, the EPA has slowly increased tribal program funding for tribal governments. The EPA did not request an increase in tribal program budgets in its FY2000 budget proposal. NCAI respectfully requests the Congress to provide the EPA with an additional \$47.3 million above the EPA tribal programs request for FY 2000. This increase will greatly assist tribal governments in tribal environmental quality enhancement and mitigation.

As we point to specific EPA activities in need of increased funding, NCAI wants to inform this Committee that it is our concern that in the immediate two years following FY2000, tribal funding will stall at current year levels. We ask this Committee to make an inquiry on our behalf to the EPA to ensure that future EPA budget requests do not preclude tribal specific funding increases if the need exists. The following four programs are part of EPA's Operating Programs, but are funded in the State and Tribal Assistance Grants appropriation account: the Indian General Assistance Program; Section 106 Source Clean and Safe Water Program Water Quality Management Planning; Clean Water Act Section 319 Non-point Source Pollution; and, Hazardous Waste Financial Assistance.

The EPA did not increase funding for the Indian General Assistance Program (GAP) under the Multimedia section of State and Tribal Assistance Grants. Tribal environmental program managers view GAP activities as the highest priority. NCAI is supportive of an increase from the current EPA request of \$42.5 million to \$52.5 million for the Indian General Assistance Program. By FY2000, we anticipate more tribes will be participating in developing water quality management activities under Section 106 of Clean and Safe Water Programs. Existing tribal participants are in need of expansion of their current funding levels. NCAI requests an increase of \$7.6 million for tribal programs for a total of \$25 million for Clean and Safe Water programs.

In its FY2000 budget, the EPA proposes to eliminate the statutory one-third of 1 percent cap on Clean Water Act Section 319 Non-point Source Pollution grant funds that may be awarded to Tribes. We support the EPA's effort to remove this arbitrarily-derived cap. NCAI also requests \$9.75 million for tribes to implement the President's Clean Water Action Plan initiative. Inherent tribal regulatory authority gives rise to tribal governmental responsibility for illegal dumping and hazardous waste disposal and management problems. In order to comply with the Resource Conservation and Recovery Act, NCAI requests \$6.25 million to develop tribal programs to implement RCRA and hazardous waste management programs.

Tribal governments are responsible for protecting the health and welfare of their citizenry. Emergency preparedness and planning are requisites for ensuring protection of tribal communities. The Superfund Amendments and Reauthorization Act of 1986 (SARA Title III), presents tribes with an unfunded mandate of compliance for emergency planning, and ability to respond to chemical emergencies. NCAI urges Congress to provide \$13.7 million to establish Tribal Emergency Response Commissions (TERC) and Local Emergency Planning Committees (LEPC), as required under SARA Title III.

M. FEDERAL EMERGENCY MANAGEMENT AGENCY

The Federal Emergency Management Agency (FEMA) released its American Indian and Alaska Native Policy at the end of 1998. We applaud FEMA for embracing the NCAI's longstanding recommendation for the agency to adopt an Indian policy. However, FEMA is one of the few remaining agencies requiring significant policy and regulatory changes to firmly establish tribal programs on a government-to-government level. Indian Country is looking forward to a successful partnership with FEMA. In establishing a solid relationship and implementing tribal outreach and service delivery, FEMA will need to make every effort to remove all programmatic barriers.

Indian Country inhabitants remain at risk without adequate emergency preparedness and response mechanisms in place to protect them. When disaster declarations are made, tribal decision-makers are left out of the loop. Indian Country has always been

at an economic disadvantage to repair community infrastructure following natural and manmade disasters.

Currently most FEMA money is disbursed to states with the intent that the states will share with tribes. In the absence of FEMA oversight, state money often does not reach tribal programs. Even if funds were provided to tribes through state agencies, such a procedure violates a government-to-government relationship with tribes. Although FEMA will reimburse tribes following a disaster declaration, most tribes believe the best strategy is a proactive approach utilizing funding for prevention and preparedness. The best way for tribes to achieve funding parity with state governments and to participate in programs is to implement set-aside programs. For these reasons, NCAI requests a tribal set-aside of not less than \$5 million for emergency prevention and preparedness for tribal governments.

Under the Policy and Regional Operations activity, FEMA has requested \$1.5 million for strategic planning, regional policy coordination, and intergovernmental affairs. As a step toward tribal readiness, it is our understanding FEMA will utilize \$500,000 for tribal pilot programs. Five tribes will be selected for this program at an average of \$100,000 per year. Although we support the pilot program initiative, we believe the amount requested will not allow tribal governments to effectively improve emergency management in tribal communities within a one year time frame. NCAI urges the Congress to increase the Policy and Regional Operations activity budget by \$1 million and direct FEMA to operate the five tribal pilot programs for two years and at the same funding level each year.

NCAI also plans to approach the Congress in the near future regarding assistance to tribal leaders in resolving the matter of disparity in declaration of emergencies in Indian Country. The Stafford Act is an inequitable law that usurps the sovereignty of tribal governments in protecting tribal communities during disaster situations. FEMA has interpreted the absence of tribal-specific language as a preclusion to emergency preparedness funding for tribes. Because of the nature of disasters and unmet needs in Indian Country, tribes should be equitable partners regarding disaster declaration issues.

IV. Conclusion

Mr. Chairman, we urge the Congress to fulfill its fiduciary duty to American Indians and Alaska Native people and to uphold the trust responsibility as well as preserve the Government-to-Government relationship, which includes the fulfillment of health, education and welfare needs of all Indian tribes in the United States. This responsibility should never be compromised or diminished because of any Congressional agenda or party platform. Tribes throughout the nation relinquished their lands as well as their rights to liberty and property in exchange for this trust responsibility. The President's FY2000 budget request acknowledges the fiduciary

duty owed to tribes. We ask that the Congress to maintain the federal trust responsibility to Indian Country and continue to aid tribes on our journey toward self-sufficiency. This concludes my statement. Thank you for allowing me to present for the record, on behalf of our member tribes, the National Congress of American Indians' initial comments regarding the President's FY2000 Budget. I will be happy to answer any questions you may have at this time.

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ATTACHMENTS -